

Report From Agency

**DATCP Docket No. 09-R-05
Rules Clearinghouse No. 10-122**

**Proposed Final Draft
March 4, 2011**

**PROPOSED ORDER OF THE WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

2 The Wisconsin department of agriculture, trade and consumer protection proposes the following
3 order *to repeal* ATCP 30.39 and subch. III of ch. ATCP 161; *to amend* Appendix A of ch. ATCP
4 21, ATCP 29.54(7)(a)5.(note) and (7)(e)2.(note), 30.32(2)(note intro.) and (3)(b)(note intro.),
5 30.33(3)(c), the prefatory note to ch. ATCP 35, ATCP 35.06(1)(g)(note), 35.06(3)(b)(note),
6 35.06(4), 35.08(5)(title), (a), (b), (b)(note) and (c) and (6)(a), 35.10(8), 35.14(19), 35.16(4)(b),
7 35.20(3), 50.12(5), 55.07(1)(a), 57.01(30), 57.10(1)(a)2. and 3., (2)(d), (i) and (j), (3) and (6)(a),
8 57.12(1)(a)2. and 3., (2)(d), (i) and (j), (3), and (6)(a), 57.14(6)(a), 57.16(2)(d) and (e), 57.20(6),
9 90.05(2)(a)(note), 91.01(4), 92.02(1), 92.06(1)(a) and (b) and (2), 92.22(1)(b) and (note), 161.01
10 and 161.07(2); and *to create* ATCP 57.10(6)(c), 57.12(6)(c) and 57.14(6)(c); *relating to* various
11 minor and technical rule changes.

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

This rule makes minor technical changes to a number of current rules administered by the department of agriculture, trade and consumer protection (“DATCP”).

Statutes Interpreted

Statutes Interpreted: ss. 92.10, 94.69, 94.01(1), 94.73, 95.72, 97.42, 98.03, 98.06, 98.07, 100.20 and ch. 160, Stats.

Statutory Authority

Statutory Authority: ss. 92.04(3)(c), 93.07(1), 94.69(1)(i), 94.73(11), 95.72(5), 97.42(4), 98.03(2), 98.07(4), 100.20(2), 160.19(2) and 160.21(1), Stats.

Explanation of Statutory Authority

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

Related Rules or Statutes

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

Plain Language Analysis

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

Hemlock Wooley Adelgid; Import Restrictions

Current DATCP rules (ch. ATCP 21, Wis. Adm. Code) restrict imports of host materials from certain areas outside this state that are known to be infested with Hemlock Wooley Adelgid, a serious pest of hemlock trees. The current rules are designed to prevent the spread of Hemlock Wooley Adelgid into this state. This rule updates the current list of places outside this state that are known to be infested with Hemlock Wooley Adelgid, as determined by the United States department of agriculture (USDA).

Atrazine Rules

This rule repeals an obsolete rule provision requiring DATCP to report on its atrazine pesticide rules (subch. VIII of ch. ATCP 30, Wis. Adm. Code) by April 1, 1996. In 1996, DATCP made a timely report in response to the (now obsolete) reporting requirement. This rule makes no substantive change to the current atrazine rules, which are designed to protect groundwater from atrazine contamination. DATCP annually reviews and updates its atrazine rules, based on the most recent groundwater survey and test data.

Agricultural Chemical Cleanup Program

This rule makes minor technical wording changes to current rules related to the agricultural chemical cleanup program (ch. ATCP 35, Wis. Adm. Code). This rule makes no substantive change to the current rules.

County Land and Water Resource Management Plans

Under s. 92.10, Stats., and current DATCP rules (ch. ATCP 50, Wis. Adm. Code), a county that wishes to be eligible for land and water resource management grants from DATCP must submit a land and water resource management plan for DATCP approval. Under current rules, DATCP may approve a county plan for up to 5 years (in consultation with the land and water conservation board). Under this rule, DATCP may approve a county plan for up to 10 years (in consultation with the land and water conservation board).

Meat Establishments

This rule incorporates, by reference, certain federal meat inspection regulations that govern the operation of meat establishments licensed and inspected by DATCP. Under federal law, state meat inspection standards must be at least “equal to” federal standards. Among other things, state-inspected meat establishments must meet federal regulations related to net weight evaluations at state-inspected facilities.

USDA recently re-codified applicable federal regulations related to net weight evaluations, and renumbered them to 9 CFR 442. This rule modifies current DATCP meat inspection rules (ch. ATCP 55, Wis. Adm. Code) to reference the re-codified federal regulations contained in 9 CFR 442. DATCP has already implemented the re-codified federal regulations, so there will be no substantive change to state meat inspection standards or operations.

Location of Rendering Plants, Animal Food Processing Plants and Grease Processing Plants

This rule modifies current rules related to the location of rendering plants, animal food processing plants and grease processing plants, in order to conform to statutory changes made by 2009 Wis. Act 398. Under section 95.72(3), Stats., and current DATCP rules (ch. ATCP 57, Wis. Adm. Code), plants may not ordinarily be located within 1/8 mile of an existing dwelling or business building. However, under 2009 Wis. Act 398 and this rule, a plant may be located within 1/8 mile of a dwelling or a business building with the approval of the city, village, or town in which the plant will be located if no animals are slaughtered at the plant.

Out-of-State Rendering Plants and Animal Food Processing Plants

Under current DATCP rules (ch. ATCP 57, Wis. Adm. Code), the operator of an out-of-state rendering plant or animal food processing plant must hold a license from DATCP if the operator collects dead animals in this state for processing in the out-of-state plant. This rule clarifies that the operator is required to hold a dead animal collector license from DATCP but is *not* required to hold a rendering plant or animal food processing plant from DATCP (as long as the operator does not operate a rendering plant or animal food processing plant in this state). This rule is consistent with current DATCP licensing practice.

Weights and Measures

This rule updates technical standards incorporated by reference in current rules related to fair packaging and labeling (ch. ATCP 90, Wis. Adm. Code), methods of sale of commodities (ch.

ATCP 91, Wis. Adm. Code), and fair weights and measures (ch. ATCP 92, Wis. Adm. Code). The technical standards are published by the National Institute of Standards and Technology (NIST). This rule incorporates the latest published editions of the relevant NIST standards, which include routine technical updates to the previously-cited editions.

ADD Grants; Signature Authority

Under current rules (ch. ATCP 161, Wis. Adm. Code), contracts awarding agricultural development and diversification grants (ADD grants) must be signed by the DATCP Secretary. This rule authorizes the DATCP Secretary to delegate signature authority to other DATCP officials such as the Deputy Secretary and Executive Assistant (this rule does not *require* the Secretary to delegate signature authority). This rule also repeals an obsolete reference, in the ADD grant rules, to a statute (s. 93.47, Stats.) that no longer exists.

Payment to Ethanol Producers

This rule repeals obsolete rules related to DATCP payments to ethanol producers (subch. III of ch. ATCP 161, Wis. Adm. Code) because the legislature has repealed the ethanol producer payment program to which those rules pertained. Section 93.75, Stats., which created the ethanol producer payment program, was repealed by 2007 Wis. Act 20.

Other Minor Edits

This rule corrects typographical errors and makes other non-substantive edits to current rules, as needed.

Fiscal Impact

This “housekeeping” rule will have no significant fiscal impact on DATCP or local units of government. This rule will not have a substantial impact on DATCP administrative or operating costs. See the complete *fiscal estimate* that accompanies this rule.

Business Impact

This rule will not have any significant impact on small business or other business. This rule makes minor technical “housekeeping” changes that will not have a significant impact on business standards, costs or operations. See the complete *business impact analysis* that accompanies this rule.

Environmental Impact

This “housekeeping” rule will have no significant impact on the environment.

Federal and Surrounding State Programs

Federal Programs

USDA works with states to identify and control invasive plant pests, including the Hemlock Wooley Adelgid. This rule identifies areas, outside this state, that are currently infested with Hemlock Wooley Adelgid as determined by USDA.

This rule updates references to weights and measures technical standards published by the National Institute of Standards and Technology (NIST). By incorporating the latest NIST standards, this rule keeps Wisconsin standards consistent with applicable national standards.

This rule incorporates, by reference, certain updated USDA regulations for federal and state meat establishments. Under federal law, standards for state-inspected meat establishments must be at least “equal to” federal standards. This rule will keep Wisconsin meat inspection regulations consistent with federal regulations. DATCP has already implemented the revised federal regulations, so there will be no substantive change to state meat inspection standards or operations.

Surrounding States

This rule will not have a significant impact on programs in this state or other states, nor will it create any significant disparity between this state and other states. The updated national weights and measures standards (NIST standards) incorporated by this rule are the same standards used in other states. The updated meat inspection standards (USDA standards) incorporated in this rule are the same standards used in other states.

Standards Incorporated by Reference

This rule updates references to certain weights and measures technical standards (NIST standards) that are incorporated by reference in current rules. Updated technical standards include standards found in NIST Handbooks 44, 130 and 133 (2011 editions).

Pursuant to s. 227.21, Stats., DATCP has requested permission from the Department of Justice to incorporate the updated technical standards by reference in this rule. Copies of the updated standards will be kept on file with DATCP and the Legislative Reference Bureau.

Data and Analytical Methodologies

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

Agency Contact for Submitting Comments

Questions or comments related to this rule may be sent to the following address:

Karen Schultz
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
Madison, WI 53718
Telephone: (608) 224-5023
Karen.Schultz@wisconsin.gov

1 **SECTION 1.** Appendix A to ch. ATCP 21 is amended as shown in the appendix attached.

2 **SECTION 2.** ATCP 29.54(7)(a)5.(note) is amended to read:

3 **NOTE:** ASSE Standard 1013-80, published by the American society of sanitary
4 engineers, is on file with ~~the secretary of state~~, the legislative reference bureau
5 and the department. The department can provide a list, by manufacturer and
6 model, of reduced pressure principle backflow preventers which comply with
7 ASSE Standard 1013-80. The department of commerce can provide a list of
8 persons qualified to test reduced pressure principle backflow preventers.

9 **SECTION 3.** ATCP 29.54(7)(e)2.(note) is amended to read:

10 **NOTE:** To obtain a current list of approved check valves, by manufacturer and model,
11 contact the department of agriculture, trade and consumer protection,
12 agricultural resource management division, P.O. box 8911, Madison, WI 53708-
13 8911. UL Standard 312, published by underwriters' laboratory is on file with
14 ~~the secretary of state~~, the legislative reference bureau and the department.

15 **SECTION 4.** ATCP 30.32(2)(note intro.) is amended to read:

16 **NOTE:** The following table summarizes subs. (1) and (2). See ss. ATCP 30.34 to ~~30.39~~
17 30.38 for additional local restrictions.

18 **SECTION 5.** ATCP 30.32(3)(b)(note intro.) is amended to read:

19 **NOTE:** The following table summarizes sub. (3). See ss. ATCP 30.34 to ~~30.39~~ 30.38 for
20 additional local restrictions.

21 **SECTION 6.** ATCP 30.33(3)(c) is amended to read:

22 ATCP 30.33(3)(c) Atrazine prohibition areas under ss. ATCP 30.35 to ~~30.39~~ 30.38.

23 **SECTION 7.** ATCP 30.39 is repealed.

1 **SECTION 8.** The prefatory note to chapter ATCP 35 is amended to read:

2 **NOTE:** This chapter codifies the agricultural chemical cleanup program created under s.
3 94.73, Stats., Persons seeking information about the program, or wishing to file
4 a ~~claim~~ an application for reimbursement of cleanup costs, may contact the
5 agricultural cleanup program in the division of agricultural resource
6 management, Wisconsin department of agriculture, trade and consumer
7 protection, P.O. Box No. 8911, Madison, Wisconsin, 53708-8911.

8 **SECTION 9.** ATCP 35.06(1)(g)(note) is amended to read:

9 **NOTE:** Under s. ATCP 35.08(5)(b), if any person applies for reimbursement of an
10 ineligible cost, the department may deduct twice the amount of that cost from
11 that person's reimbursement ~~claim~~ application if the responsible person knew or
12 should have known that the cost was not eligible. If a responsible person is not
13 certain whether a corrective action cost is eligible for reimbursement under this
14 chapter, the responsible person may contact the department for a preliminary
15 opinion under s. ATCP 35.08(1).
16

17 **SECTION 10.** ATCP 35.06(3)(b)(note) is amended to read:

18 **NOTE:** Persons filing fraudulent ~~claims~~ applications may also be subject to criminal
19 prosecution.
20

21 **SECTION 11.** ATCP 35.06(4) is amended to read:

22 ATCP 35.06(4) FAILURE TO SEEK REIMBURSEMENT IN PRIOR APPLICATION. A responsible
23 person may not apply for reimbursement of an eligible corrective action cost which the
24 responsible person paid during or before the period for which a prior reimbursement ~~claim~~
25 application has been submitted for that discharge under this chapter at the time of any prior
26 reimbursement application for that discharge site.

27 **SECTION 12.** ATCP 35.08(5)(title), (a), (b), (b)(note) and (c) and (6)(a) are amended to
28 read:

29 ATCP 35.08(5)(title) INELIGIBLE ~~CLAIMS~~ COSTS REJECTED. (a) The department shall
30 disapprove any portion of a reimbursement ~~claim~~ which application that the department finds to

1 be ineligible for reimbursement under this chapter, and shall deduct any costs ~~which~~ that the
2 department finds to be ineligible for reimbursement.

3 (b) If the department finds that any portion of an applicant's reimbursement ~~claim~~
4 application is ineligible, and that the applicant knew or should have known that it was ineligible,
5 the department shall deduct twice the amount of the ineligible ~~claim~~ cost from the applicant's
6 total ~~claim~~ application. Deductions under this paragraph may not exceed the total amount of the
7 applicant's ~~claim~~ application. Before making a deduction under this paragraph, the department
8 may consult with the agricultural chemical cleanup council appointed under s. ATCP 35.34.

9 **NOTE:** The department will invoke sub. (5)(b) in cases where a ~~claim~~ cost is clearly
10 ineligible, either because it is clearly prohibited under s. ATCP 35.14 or
11 because there is no plausible basis for ~~claiming~~ applying for reimbursement
12 under this chapter. In order to protect themselves against a double deduction
13 under sub. (5)(b), applicants may discuss questionable items with the
14 department before submitting ~~a claim~~ an application.

15
16 (c) If, after consulting with the agricultural cleanup council, the department determines
17 that the cost ~~claimed~~ submitted for any goods or services is clearly unreasonable in relation to
18 current market cost for those goods or services, the department may deny reimbursement of the
19 excessive cost, and may reimburse a lesser cost which the department considers reasonable. In
20 determining whether a cost is unreasonable, the department may consider the nature of the goods
21 or services, the geographic location of the discharge site, the need for the goods or services, the
22 availability of alternative goods or services, and other factors that may reasonably affect the
23 costs of the goods or services.

24 (6)(a) The department, after consulting with the agricultural chemical cleanup council,
25 may reduce the reimbursement rate for a corrective action related to a discharge discovered after
26 November 1, 2004 if the department has received or paid a reimbursement ~~claim~~ application
27 related to a prior discharge at the same discharge site.

1 **SECTION 13.** ATCP 35.10(8) is amended to read:

2 ATCP 35.10(8) The responsible person's application for reimbursement includes ~~a claim~~
3 an application or waiver, under s. ATCP 35.20(3), from each of the responsible persons
4 identified under s. ATCP 35.20(2).

5 **SECTION 14.** ATCP 35.14(19) is amended to read:

6 ATCP 35.14(19) Costs to investigate or repair environmental contamination involving
7 substances that are not agricultural chemicals. If a corrective action under this chapter is
8 combined with the investigation or repair of environmental contamination involving substances
9 that are not agricultural chemicals, the department may reimburse a portion of the combined
10 project costs based on a reasonable cost allocation formula approved by the department. If for
11 any combination project, a responsible person also submits a reimbursement ~~claim~~ application to
12 another governmental agency, the cost allocation formula shall be approved by the department
13 and that other agency.

14 **SECTION 15.** ATCP 35.16(4)(b) is amended to read:

15 ATCP 35.16(4)(b) A responsible person may select any contract service provider, but
16 may not ~~claim~~ apply for reimbursement of any corrective action costs that exceed the low bid for
17 any of the following contract services:

18 **SECTION 16.** ATCP 35.20(3) is amended to read:

19 ATCP 35.20(3) JOINT APPLICATION. The department shall deny a reimbursement
20 application unless every responsible person successfully notified under sub. (2) includes his or
21 her full claim for reimbursement as part of the same joint application, or waives any claim for
22 reimbursement related to discharges to date at that discharge site. If a notified person fails to
23 submit a ~~claim~~ an application within 30 days after receiving notice, or fails to provide

1 documentation under s. ATCP 35.06 (1) within 60 days after receiving notice, that failure
2 constitutes a waiver of that person's claim with respect to that application.

3 **SECTION 17.** ATCP 50.12(5) is amended to read:

4 ATCP 50.12(5) PLAN APPROVAL. The department shall review a county land and water
5 resource management plan, and shall approve or disapprove the plan after consulting with the
6 LWCB. The department shall review the plan based on the criteria identified in this section, s.
7 ATCP 50.30(3) and 92.10(6), Stats. The secretary shall sign the order approving or disapproving
8 the county plan. The department shall approve a plan for a specified period of time that shall not
9 exceed 5 10 years, subject to conditions that the department specifies in the order. The
10 department's approval does not take effect if the county board does not approve the county plan.

11 **SECTION 18.** ATCP 55.07(1)(a) is amended to read:

12 ATCP 55.07(1)(a) A meat establishment operator who does any of the following shall
13 comply with applicable federal standards under 9 CFR parts 307 to 311, 313 to 315, 317, 319,
14 416, 417, 430, ~~and 441~~ and 442.

15 **SECTION 19.** ATCP 57.01(30) is amended to read:

16 ATCP 57.01(30) "Truck Transfer ~~transfer~~ station" means a location at which carcasses or
17 carcass materials are collected or transferred between vehicles for transportation to another
18 location. "Truck Transfer ~~transfer~~ station" does not include a receiving or holding area that is
19 part of a rendering plant or animal food processing plant.

20 **SECTION 20.** ATCP 57.10(1)(a)2. and 3., (2)(d), (i) and (j), (3) and (6)(a) are amended to
21 read:

22 ATCP 57.10(1)(a)2. Collect, receive or transport, in this state, carcasses or carcass
23 materials for rendering by that person in this state ~~or another state~~.

1 3. Slaughter animals in this state for rendering by that person in this state ~~or another~~
2 state.

3 (2)(d) The address of each rendering plant and truck transfer station that the applicant
4 operates or proposes to operate in this state.

5 (2)(i) An annual license fee of \$200 for each rendering plant that the person operates or
6 proposes to operate in this state. No fee is required for a truck transfer station.

7 (2)(j) A pre-license inspection fee of \$25 for each rendering plant for which a pre-license
8 inspection is required under sub. (3). No fee is required for pre-license inspection of a truck
9 transfer station.

10 (3) PRE-LICENSE INSPECTION. Before the department issues a license covering a new
11 rendering plant, or issues a license to a new operator of an existing rendering plant, the
12 department shall inspect that rendering plant. The department may also inspect separate truck
13 transfer stations operated by the renderer. The department shall perform the inspection within 30
14 days after the operator files a complete license application, unless the applicant agrees to a later
15 inspection date.

16 (6)(a) Except as provided in pars. (b) or (c), No no person may establish a rendering
17 plant within 1/8 mile of any existing building used as a residential dwelling or as a public or
18 private place of business.

19 **SECTION 21.** ATCP 57.10(6)(c) is created to read:

20 ATCP 57.10(6)(c) A person may establish or expand a rendering plant within 1/8 mile of
21 a dwelling or a business building with the approval of the city, village, or town in which the
22 rendering plant would be located if animals will not be slaughtered in the rendering plant and
23 only carcasses will be processed in the rendering plant.

1 **SECTION 22.** ATCP 57.12(1)(a)2. and 3., (2)(d), (i) and (j), (3) and (6)(a) are amended to
2 read:

3 ATCP 57.12(1)(a)2. Collect, receive or transport, in this state, carcasses or carcass
4 materials for animal food processing by that person in this state ~~or another state.~~

5 3. Slaughter animals in this state for animal food processing by that person in this state
6 ~~or another state.~~

7 (2)(d) The address of each animal food processing plant and truck transfer station that
8 the animal food processor operates in this state.

9 (i) An annual license fee of \$200 for each rendering plant that the person operates or
10 proposes to operate in this state. No fee is required for a truck transfer station.

11 (j) A pre-license inspection fee of \$25 for each animal food processing plant for which a
12 pre-license inspection is required under sub. (3). No fee is required for pre-license inspection of
13 a truck transfer station.

14 (3) PRE-LICENSE INSPECTION. Before the department issues a license covering a new
15 animal food processing plant, or issues a license to a new operator of an existing animal food
16 processing plant, the department shall inspect that animal food processing plant. The department
17 may also inspect separate truck transfer stations operated by the animal food processor. The
18 department shall perform the inspection within 30 days after the operator files a complete license
19 application, unless the applicant agrees to a later inspection date.

20 (6)(a) Except as provided in pars. (b) or (c), No no person may establish an animal food
21 processing plant within 1/8 mile of any existing building used as a residential dwelling or as a
22 public or private place of business.

23 **SECTION 23.** ATCP 57.12(6)(c) is created to read:

1 ATCP 57.12(6)(c) A person may establish or expand an animal food processing plant
2 within 1/8 mile of a dwelling or a business building with the approval of the city, village, or
3 town in which the animal food processing plant would be located if animals will not be
4 slaughtered in the animal food processing plant and only carcasses will be processed in the
5 animal food processing plant.

6 **SECTION 24.** ATCP 57.14(6)(a) is amended to read:

7 ATCP 57.14 (6)(a) Except as provided in pars. (b) or (c), ~~No~~ no person may establish a
8 grease processing plant within 1/8 mile of any existing building used as a residential dwelling or
9 as a public or private place of business.

10 **SECTION 25.** ATCP 57.14(6)(c) is created to read:

11 ATCP 57.14(6)(c) A person may establish or expand a grease processing plant within 1/8
12 mile of a dwelling or a business building with the approval of the city, village, or town in which
13 the grease processing plant would be located.

14 **SECTION 26.** ATCP 57.16(2)(d) and (e) are amended to read:

15 ATCP 57.16(2)(d) The address of every truck transfer station that the applicant operates
16 or proposes to operate in this state.

17 (e) The livestock premises registration number assigned under ch. ATCP 17 to each
18 truck transfer station identified under par. (d). If the applicant has not yet registered a truck
19 transfer station under ch. ATCP 17, the applicant may register that location as part of the license
20 application under this subsection.

21 **SECTION 27.** ATCP 57.20(6) is amended to read:

22 ATCP 57.20(6) REMOVING CARCASSES FROM TRUCK TRANSFER STATIONS. A person who
23 operates a truck transfer station shall remove carcasses and cases materials from that truck

1 transfer station within 24 hours after they are received, and sooner if necessary to prevent
2 nuisance conditions. Carcasses and carcass materials received on a Saturday, or on a Sunday
3 followed by a legal holiday, shall be removed within 48 hours and sooner if necessary to prevent
4 nuisance conditions.

5 **SECTION 28.** ATCP 90.05(2)(a)(note) is amended to read:

6 **NOTE:** For example, a liquid measure may be expressed in any of the following ways:

- 7 Contents: 1 gal, 2 qt
- 8 Contents: 1.5 gal
- 9 Contents: 6 qt
- 10 Contents: 1 qt, 1 pt
- 11 Contents: 1.25 qt
- 12 Contents: 1 pt, 8 oz
- 13 Contents: 1 1/2 pt
- 14 Contents: 1.5 pt
- 15 Contents: 8 fl oz

16
17 **SECTION 29.** ATCP 91.01(4) is amended to read:

18 ATCP 91.01(4) “NIST Handbook 130” means *NIST Handbook 130 (2009 2011 edition)*
19 published by the national institute of standards and technology, United States department of
20 commerce.

21 **SECTION 30.** ATCP 92.02(1) is amended to read:

22 ATCP 92.02(1) Except as provided in this chapter, weighing and measuring devices
23 shall comply with applicable specifications, tolerances and other technical requirements set forth
24 in the nation institute of standards and technology handbook 44 (specifications, tolerances and
25 other technical requirements for weighing and measuring devices), ~~2009~~ 2011 edition.

26 **SECTION 31.** ATCP 92.06(1)(a) and (b) and (2) are amended to read:

1 ATCP 92.06(1)(a) The national institute of standards and technology handbook 44
2 (specifications, tolerances, and other technical requirements for weighing and measuring
3 devices), ~~2009~~ 2011 edition.

4 (b) The national institute of standards and technology handbook 133 (checking the net
5 contents of packaged goods), ~~2005~~ 2011 edition.

6 (2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall comply
7 with section 7 “test procedures” from the chapter titled “examination procedure for price
8 verification,” national institute of standards and technology handbook 130 (uniform laws and
9 regulation in the areas of legal metrology and engine fuel quality), ~~2009~~ 2011 edition.

10 **SECTION 32.** ATCP 92.22(1)(b) and (note) are amended to read:

11 ATCP 92.22(1)(b) Comply with applicable requirements contained in the national
12 institute of standards and technology handbook 44 (specifications, tolerances, and other technical
13 requirements for weighting and measuring devices), ~~2009~~ 2011 edition.

14 **NOTE:** The national institute of standards and technology handbook 44, ~~2009~~ 2011
15 edition, is on file with the department and the legislative reference bureau. You
16 may purchase copies of this handbook from the U.S. Government Printing
17 Office, Superintendent of Document Sales, P.O. Box 371954, Pittsburgh, PA
18 15250-7954.

19
20 **SECTION 33.** ATCP 161.01 is amended to read:

21 **ATCP 161.01 Purpose.** This subchapter establishes procedural requirements for the
22 administration of the agricultural diversification and development grant program under s. 93.46,
23 ~~Stats., and the sustainable agriculture program under s. 93.47, Stats.~~

24 **SECTION 34.** ATCP 161.07(2) is amended to read:

25 ATCP 161.07(2) CONTRACT PROVISIONS. A grant contract shall be reasonably designed
26 to ensure that the grant recipient carries out the recipient’s obligations with respect to the grant.

1 The contract shall be signed by ~~the secretary of the department and~~ an authorized department
2 official and by the applicant. The parties may amend the contract by mutual written consent.

3 **SECTION 35.** Subchapter III of chapter ATCP 161 is repealed.

4 **SECTION 36. EFFECTIVE DATE:** This rule takes effect on the first day of the month
5 following publication in the Wisconsin administrative register, as provided in s. 227.22 (2)
6 (intro.), Stats.

Dated this _____ day of _____, 2011.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Ben Brancel, Secretary

Chapter ATCP 21, Wis. Adm. Code

APPENDIX A

AREAS INFESTED BY HEMLOCK WOOLLY ADELGID

States (entire state)

- Alaska
- California
- Connecticut
- Delaware
- New Jersey
- Oregon
- Rhode Island
- Washington

Counties

- In the state of **Georgia**, the counties of:– Dawson, Fannin, Gilmer, Habersham, Lumpkin, Rabun, Stephens, Towns, Union, White.
- In the state of **Kentucky**, the counties of:– Bell, Clay, Harlan, Leslie, Letcher, Pike, Powell, Whitley.
- In the state of **Maine**, the county of York.
- In the state of **Maryland**, the counties of:– Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, Talbot, Washington.
- In the state of **Massachusetts**, the counties of:– Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk, Worcester.
- In the state of **New Hampshire**, the counties of:– Hillsborough, Rockingham, Stafford.
- In the state of **New Jersey**, the counties of:– Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, Warren.
- In the state of **New York**, the counties of:– Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Monroe, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Schuyler, Seneca, Suffolk, Sullivan, Tompkins, Ulster, Westchester, Yates.

- In the state of **North Carolina**, the counties of:– Alamance, Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Caswell, Catawba, Cherokee, Clay, Forsyth, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Orange, Polk, Rockingham, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yancey.
- In the state of **Pennsylvania**, the counties of:– Adams, Allegheny, Beaver, Bedford, Berks, Blair, Bradford, Bucks, Cambria, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Elk, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Sesquehanna, Tioga, Union, Wayne, Westmoreland, Wyoming, York.
- In the state of **Rhode Island**, the counties of:– Bristol, Kent, Newport, Providence, Washington.
- In the state of **South Carolina**, the ~~county~~ counties of:– Greenville, Oconee, Pickens.
- In the state of **Tennessee**, the counties of:– Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, Washington.
- In the state of **Vermont**, the county of Windham.
- In the state of **Virginia**, the counties of:– Albemarle, Alleghany, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Caroline, Carroll, Chesterfield, Clarke, Craig, Culpeper, Dickenson, Essex, ~~Culpeper~~, ~~Dickenson~~, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Hanover, Henrico, Henry, Highland, King William, Lee, Loudon, Lunenburg, Madison, Montgomery, Nelson, Northumberland, Orange, Page, Patrick, Pittsylvania, Prince William, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Spotsylvania, Tazewell, Warren, Washington, Wise, Wythe.
- In the state of **West Virginia**, the counties of:– Barbour, Berkeley, Boone, Braxton, Cabell, Fayette, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Kanawha, Logan, Marion, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Preston, Raleigh, Randolph, Roane, Summers, Tucker, Upshur, Webster, Wood, Wyoming.