

**ORDER OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION AMENDING RULES**

- 1 The state of Wisconsin department of agriculture, trade and consumer protection  
2 adopts the following order to repeal ATCP 21.01(9) and 21.11; and to amend ATCP 21.01(2)  
3 and (15) and 29.56(1)(e)4; relating to plant inspection and pest control.

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

Statutory Authority: ss. 93.07(1) and (12), 94.01(1) and 94.76(1), Stats.

Statutes Interpreted: ss. 93.07(12) and (13), 94.01, and 94.76, Stats.

This rule repeals current import controls designed to prevent the spread of Japanese beetles into this state. Despite the current import controls, Wisconsin is now infested with Japanese beetle. The current import controls therefore serve no purpose, and may unnecessarily impede interstate commerce. This rule also updates scientific terminology and statutory references in current rules.

**Rule Contents**

**Japanese Beetle: Repeal of Import Controls**

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers plant pest control rules, under ch. ATCP 21, Wis. Adm. Code. Current rules include import controls designed to prevent the spread of Japanese beetles into Wisconsin. Persons who import certain plants, soil and other materials from areas infested with Japanese beetle must have those materials inspected and certified by a pest control official in the state or province of origin. The inspector must certify that the import shipment is free of Japanese beetle. The importer must pay for the inspection and certification.

Despite these import controls, the Japanese beetle has now infested Wisconsin and over half of all U.S. states. Because Wisconsin is now infested, its current import controls may serve no useful purpose and may unnecessarily impede interstate commerce. Wisconsin's current import restrictions are not consistent with the U.S. Domestic Japanese Beetle Harmonization Plan adopted by the National Plant Board. That plan recommends regulation of imports to states that

are not yet infested, but does *not* recommend regulation of imports to states (like Wisconsin) that are already infested.

Consistent with the national harmonization plan, this rule repeals current Japanese beetle inspection and certification requirements for materials imported into Wisconsin. This repeal will not affect the natural spread of the Japanese beetle in Wisconsin. DATCP will continue to inspect and certify export shipments from Wisconsin to non-infested states that require such inspection and certification.

### **Taxonomic Name Changes**

DATCP currently regulates honeybee shipments, under ch. ATCP 21, Wis. Adm. Code, to prevent the spread of honeybee pests in this state. Two of these pests have undergone taxonomic name changes. The International Committee on Systematic Bacteriology (1993) has changed the scientific name of the pathogen, American foulbrood. The scientific journal, *Experimental and Applied Acarology* (2000), has changed the scientific name of the Varroa mite. This rule updates those pest names. The name changes will not change the regulation of honeybee shipments.

### **State Pest Control Programs**

Current DATCP rules under ch. ATCP 29, Wis. Adm. Code, regulate the use of pesticides in this state. DATCP and its agents are currently exempt from these rules when engaged in state pest control programs under s. 94.02, Stats., or ch. ATCP 21, Wis. Adm. Code. This rule clarifies that DATCP and its agents are also exempt when engaged in state pest control programs under s. 94.01, Stats.

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1     **SECTION 1.** ATCP 21.01 (2) and (15) are amended to read:

2     ATCP 21.01 (2)“American foulbrood” means ~~Bacillus~~ Paenibacillus larvae and related  
3 pathogens.

4     (15) “Varroa mite” means ~~Varroa jacobsoni~~ Varroa destructor

5     **SECTION 2.** ATCP 21.01 (9) is repealed.

6     **SECTION 3.** ATCP 21.11 is repealed.

7     **SECTION 4.** ATCP 29.56 (1)(e) 4 is amended to read:

8     ATCP 29.56 (1)(e) 4. Pesticide applications made by the department or its agent pursuant to s.  
9     94.01 or 94.02, Stats., or ch. ATCP 21.

1 **EFFECTIVE DATE.** The rules contained in this order shall take effect on the first day of the  
2 month following publication in the Wisconsin administrative register, as provided under s.  
3 227.22(2) (intro), Stats.

Dated this \_\_\_\_\_ day of August, 2002.

State of Wisconsin  
Department of Agriculture  
Trade and Consumer Protection

By \_\_\_\_\_  
James E. Harsdorf  
Secretary