

DATCP Docket No. 15-R-18
Hearing Draft Rule
Clearinghouse Rule No.
December 22, 2016

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

The Wisconsin department of agriculture, trade and consumer protection proposes the following permanent rule *to repeal* ATCP 10.30 (1) (a) 3m.; *to renumber and amend* ATCP 10.32 (1) (intro.) and (a) and (b), 10.32 (2) (intro.) and (a) to (e); *to amend* ATCP 10.30 (1) (b) 2., 10.30 (2) (b) 2. and 3., and 10.30 (2) (d); *to repeal and recreate* ATCP 10.30 (1) (a) 3.; and *to create* ATCP 10.291, 10.30 (2) (b) 3. (Note), 10.30 (2) (b) 5., and 10.32 (2), relating to swine animal disease control.

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

This proposed rule establishes testing requirements for commercial swine imported into or moving within Wisconsin in order to control the spread of the porcine reproductive and respiratory syndrome (PRRS) and porcine epidemic diarrhea virus (PEDv).

Statutes Interpreted

Statutes interpreted: ss. 93.07, 93.15, 95.20, 95.22, 95.38, and 95.45, Stats.

Statutory Authority

Statutory authority: ss. 93.07 (1), (2) and (10), 93.15 (1), (2) and (3), 95.20, 95.22, 95.38 (3), and 95.45 (4) (c), Stats.

Explanation of Statutory Authority

The Department of Agriculture, Trade and Consumer Protection (“department”) has broad authority to promulgate rules for the proper enforcement of its programs under s. 93.07 (1) and (10), Stats.

The department has broad authority under s. 95.20, Stats., to prohibit or regulate the importing of animals into this state or the movement of animals if there are reasonable grounds to believe it is necessary to prevent the introduction or spread of disease in this state.

The department has specific rulemaking authority on reporting animal diseases under s. 95.22 (2) and certificates of veterinary inspection under s. 95.45 (4) (c), Stats. The department makes and enforces these rules, through its division of animal health (“division”).

Related Statutes and Rules

None.

Plain Language Analysis

The proposed rule establishes testing requirements for commercial swine imported into or moving within Wisconsin in order to control the spread of the porcine reproductive and respiratory syndrome (PRRS) and porcine epidemic diarrhea virus (PEDv), as follows:

Swine imported to Wisconsin

Current rule requires, with some exceptions, that swine imported to Wisconsin be accompanied by a valid certificate of veterinary inspection (CVI) and an import permit. One of those exceptions includes commercial swine imported directly to a federally approved livestock marketing facility. The proposed rule no longer allows for that particular exception from getting a CVI or import permit unless all the swine on the market premises the day of the sale are shipped directly to slaughter.

Current rule requires CVIs to include a statement disclosing the PRRS and PEDv status of an imported swine's herd of origin, if known. The proposed rule replaces the statement with the following requirements:

- For breeding swine, both of the following:
 1. A report of a negative PRRS and PED test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin.
 2. A statement from the veterinarian that there are no clinical signs of PRRS and PEDv at the time of inspection.
- For commercial swine purchased or obtained from a commingled auction, sale, or exhibition, all of the following:
 1. A report of a negative PRRS and PEDv test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin.
 2. A statement from the event's veterinarian that all the swine commingled at the auction, sale, or exhibition had a negative PRRS and PEDv test from their respective herds of origin conducted within 90 days prior to movement to the auction, sale, or exhibition.
 3. A statement from the event's veterinarian that there are no clinical signs of the PRRS and PEDv at the time of inspection.
- For commercial swine imported directly to a federally approved livestock marketing facility for purposes other than slaughter, all of the following:
 1. A report of a negative PRRS and PEDv test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin.
 2. A statement from the marketing facility's veterinarian that there are no clinical signs of the PRRS and PEDv at the time of inspection.
- For all other commercial swine, a statement from the veterinarian stating that the PRRS and PEDv status of the herd of origin is negative.

Except for commercial swine imported to an approved livestock marketing facility for purposes other than slaughter, commercial and breeder swine that do not meet the above requirements may be transported to Wisconsin if the person importing them obtains an import permit from the department. The department will quarantine the swine upon arrival until a herd plan is approved by the department. An approved livestock marketing facility may not accept swine that do not meet the disease testing requirements.

The above PRRS and PEDv import requirements do not apply to:

- Swine imported directly to a slaughtering establishment for slaughter.
- Commercial swine imported directly to a veterinary facility for treatment, provided that the swine is returned to its state of origin immediately following treatment and there is no change of ownership.
- Commercial swine returning directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the swine was shipped directly to the veterinary facility and there was no change of ownership.

Swine moving in Wisconsin

The proposed rule establishes new requirements for moving commercial swine within the state.

No person may move commercial swine intrastate unless the herd of origin has tested negative on a PRRS and PEDv test conducted not more than 90 days prior to movement and documentation of the negative test reports are made available to the department upon request.

If the swine's herd of origin tests positive for PRRS or PEDv, the department will quarantine the herd of origin until a herd plan is developed and approved.

If commercial exhibition swine originate from Wisconsin and return to Wisconsin after an exhibition in another state, the exhibitor must notify the department of the movement. The department will quarantine the swine, herd of origin, or both until a herd plan is developed and approved. This provision is not applicable if all the swine at the exhibition are from negative herds.

These new intrastate movement requirements do not apply to either of the following:

- Swine moved directly to a slaughtering establishment for slaughter.
- Swine moved to one fair or exhibition prior to being shipped directly to slaughter.

Herd plans

The goal of the herd plan is to bring the herd to negative PRRS and PEDv status and limit the spread of the disease. The herd plan must:

- Be written by a Wisconsin certified, accredited, licensed veterinarian on behalf of the importer.
- Establish testing protocols relating to PRRS and PEDv, as appropriate.
- Establish notification requirements of at risk farms.
- Establish biosecurity requirements.
- Be broken down into separate production categories that need to be managed.
- Be approved by the department.

The department will provide sample herd plans to assist veterinarians in herd plan development.

PRRS and PEDv testing

Tests to determine whether PRRS or PEDv is in the herd of origin must be approved by the department and provide 90% confidence that the disease would be identified if present at 30% prevalence in the herd. This means for herds with less than 30 swine, one pooled sample of at least five swine, or swine available

if less than five, must be collected and tested. For herds with 30 or more swine, three pooled samples of at least five swine must be collected and tested.

Summary of, and comparison with, existing or proposed federal statutes and regulations

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.

Comparison with Rules in Adjacent states

Similar to other Midwestern states, Wisconsin has established programs for historically important diseases, such as tuberculosis, brucellosis and chronic wasting disease. Wisconsin would be the first to establish testing requirements for PRRS and PEDv when moving swine in order to prevent and control these diseases. Surrounding states have no PRRS or PEDv testing requirements in place for moving swine.

PRRS and PEDv have proven to be costly, highly contagious diseases among pigs and can result in tremendous production losses for swine producers.

Summary of Factual Data and Analytical Methodologies

Porcine reproductive and respiratory syndrome (PRRS) is a virus that is also known as blue-ear pig disease. This economically important, panzootic disease causes reproductive failure in breeding stock and respiratory tract illness in young pigs. Clinical signs include dramatic reproductive losses, increased pneumonia, and reduced pig growth.

An “Assessment of the Economic Impact of Porcine Reproductive and Respiratory Syndrome Virus on United States Pork Producers,” created by the Iowa State University and published in the *Journal of Swine Health and Production*, in 2013, compiled data from the U.S. Department of Agriculture, a survey of swine veterinarians on the incidence and impact of PRRS, and production records from commercial farms with known PRRS status. Animal-level economic impact of productivity losses and other costs attributed to PRRS were estimated using an enterprise budgeting approach and extrapolated to the national level on the basis of the US breeding herd inventory, number of pigs marketed, and number of pigs imported for growing. The total cost of productivity losses due to PRRS in the US national breeding and growing-pig herd was estimated at \$664 million annually, an increase from the \$560 million annual cost estimated in 2005.

According to a February 16, 2016, article from the *Scientific American*,

“One of the worst things that can happen to a pig farmer is a pen infected with porcine reproductive and respiratory syndrome virus (PRRSV). It emerged in the 1980s, and the syndrome now afflicts these hoofed animals worldwide, causing illness, death and miscarriage. In fact, it has been designated the most economically significant disease for swine, costing livestock producers in North America \$600 million annually from deaths and medical treatments. Vaccinations have mostly failed to prevent the syndrome's spread.”

Similar to PRRS, the Porcine Epidemic Diarrhea Virus (PEDv) has a substantial economic burden given that it is highly infectious, resulting in significant morbidity and mortality in piglets.

PEDv is a coronavirus that affects swine, causing diarrhea and vomiting, and death of 50-100 percent of infected piglets. Adult pigs can become infected and lose weight after being infected but generally do not have mortality. PEDv has persisted and spread, and now has been detected in 27 states. USDA's Animal and Plant Health Inspection Service (APHIS) has moved forward on the recommendation to deem PEDv a reportable disease.

Wisconsin's swine production ranks 19th in the nation, supports more than 5,000 jobs and produces more than \$136 million in annual income. Given these factors, it is important that these diseases are controlled as they can seriously affect the state's hog production industry.

This proposed rule is industry driven and based on several meetings with and requested changes made by the PRRS/PEDv Eradication Task Force. The proposed rule has been approved by the Wisconsin Pork Association.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

Division staff met several times with the Wisconsin Pork Association's PRRS/PEDv Eradication Task Force to develop the contents of this proposed rule. The task force is comprised of veterinarians, pork producers representing a variety of Wisconsin farms, and other industry representatives. Many of the small business fiscal effects were discussed and determined at those meetings.

Effect on Small Business

The majority of the costs associated with this proposed rule will be the testing of swine for PRRS and PED prior to movement. If the producer moves swine on a regular basis, at most, such testing would be done on a quarterly basis (testing must be done within 90 days before movement). The movement of and number of swine in the herd will be the greatest factors in determining cost.

The number of swine to be sampled to provide 90% confidence that the disease would be identified if present at 30% prevalence in a herd is as follows:

- For herds with less than 30 swine—1 pooled sample of 5 swine.
- For herds with 30 or more swine—3 pooled samples of at least 5 swine.

Testing can be done by hanging a cotton rope (from a rope test kit) in a group of pigs to collect saliva, and does not require an on-farm visit from the veterinarian. The samples can be collected by the farm owner under the direction of a veterinarian, but must be submitted through an accredited veterinarian to a diagnostics lab. If using a rope test, up to 30 swine can be tested at one time. A single rope test costs \$5.25. The rope test can be used to sample the swine for both PRRS and PED. For herds with less than 30 swine, only 1 rope test is needed to collect samples for the herd. For herds with 30 or more swine, 3 rope tests with samples from 3 groups of at least 5 swine per group must be collected.

The samples may be submitted to Iowa State University or the University of Minnesota for testing. The submission fee for either university is \$10, regardless of the number of samples submitted.

Iowa State University charges \$25 for the PRRSv using the PCR test and \$25 for the PEDv using the PCR test. University of Minnesota charges \$30.80 for the PRRSv using the PCR test and \$33 for the PEDv using the PCR test. This fee includes a 10% out-of-state surcharge.

In addition, the veterinary clinic that submits the samples typically charge a shipping and handling fee. Based on samples submitted during last summer's fairs, shipping and handling fees ranged from \$7 and \$13.50.

Minimum costs to test a small herd for PRRS and PEDv would be \$72.25 and a large herd would be \$182.75, determined as follows:

	Less than 30 swine (1 pooled sample)	30 or more swine (3 pooled samples)
Rope test for PRRSv and/or PEDv	\$5.25	\$15.75
Submission fee	10.00	10.00
PCR test for PRRSv	25.00	75.00
PCR test for PEDv	25.00	75.00
Shipping & handling	7.00	7.00
Total	\$72.25	\$182.75

The proposed rule allows a producer to collect samples under the direction of a veterinarian. Additional costs may be incurred if the producer chooses to have a veterinarian collect the samples. These costs are indeterminate.

The entities that may be affected by this rule modification include veterinarians and swine producers. To assist veterinarians in this process, sample herd plans will be provided.

Environmental Impact

This rule does not have an environmental impact.

Standards Incorporated by Reference

None.

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SECTION 1. ATCP 10.291 is created to read:

ATCP 10.291 Swine porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus: testing and control. (1) WHO MAY COLLECT TEST SAMPLE. A person who collects a porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test sample, for purposes of this chapter or ch. ATCP 12, shall be one of the following:

(a) An accredited veterinarian and, if the accredited veterinarian collects the test sample from swine in this state, a Wisconsin certified veterinarian.

(b) A person working under the direction of a veterinarian under par. (a), provided that the veterinarian submits the sample for testing.

(c) An authorized employee or agent of the department or the federal bureau.

(2) **TEST PROCEDURE.** A test and test strategy used to determine whether the porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus is in the herd of origin shall be approved by the department and shall provide 90% confidence that the disease would be identified if present at 30% prevalence in the herd, as follows:

(a) For herds with less than 30 swine, one pooled sample of at least five swine or total number of swine available if less than five, must be collected and tested.

(b) For herds with 30 or more swine, three pooled samples of at least five swine must be collected and tested.

Note: Testing for both porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus can be done by hanging a cotton rope from a rope test kit in a group of swine to collect a pooled sample of those swine.

(3) **REPORTING TEST RESULTS.** A person under sub. (1) who collects porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus samples from swine in this state shall report any positive test results to the department and the swine owner.

(4) **QUARANTINE.** (a) The department may quarantine swine whenever the department reasonably suspects that the swine may be infected with or exposed to the porcine reproductive and respiratory syndrome or the porcine epidemic diarrhea virus. The department may quarantine all swine located on the premises. The quarantine shall comply with s. ATCP 10.89.

(b) The department may release a quarantine under par. (a) if a herd plan under par. (5) is completed by a Wisconsin certified, accredited, licensed veterinarian on behalf of the swine owner and the plan is approved by the department.

(5) **HERD PLAN.** A herd plan is an agreement, between the department and an owner of swine, for the control of the porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus. The goal of the herd plan is to bring the herd to negative from both diseases and limit the spread of the diseases. A herd plan shall be developed by a Wisconsin certified, accredited, licensed veterinarian on behalf of the swine owner, establish testing protocols relating to porcine reproductive and respiratory syndrome or porcine epidemic diarrhea virus, or both, as appropriate, establish notification requirements of at risk farms, establish biosecurity requirements, and shall be broken down into separate production categories that need to be managed.

SECTION 2. ATCP 10.30 (1) (a) 3. is repealed and recreated to read:

ATCP 10.30 (1) (a) 3. a. For breeder swine, a report of a negative porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin and a statement from the veterinarian that there are no clinical signs of the porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus at the time of inspection.

b. For commercial swine purchased or obtained from a commingled auction, sale, or exhibition, a report of a negative porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin; a

statement from the event's veterinarian that all the swine commingled at the auction, sale, or exhibition had a negative porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test from their respective herds of origin conducted within 90 days prior to movement to the auction, sale, or exhibition; and a statement from the event's veterinarian that there are no clinical signs of the porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus at the time of inspection.

c. For commercial swine imported directly to a federally approved livestock marketing facility under s. ATCP 10.07 (4), for purposes other than slaughter, a report of a negative porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test from the swine's herd of origin conducted within 90 days prior to movement into Wisconsin and a statement from the veterinarian that there are no clinical signs of the porcine reproductive and respiratory syndrome and the porcine epidemic diarrhea virus at the time of inspection.

d. Except as specified under subpars. a., b. and c., for all other commercial swine, a statement from the veterinarian stating that the porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus status of the herd of origin is negative.

NOTE: A person who imports breeder swine and commercial swine that do not meet the requirements under subpars. a., b., and d. must get an import permit from the department. The imported swine, swine herd on the premises, or both will be quarantined by the department until a herd plan is approved by the department. See sub. (2) (a) and (d) 2. and s. ATCP 10.291(5). The department may not issue an import permit for swine that do not meet the requirements under subpar. d., thus an approved livestock marketing facility may not accept swine that do not meet the disease testing requirements.

SECTION 3. ATCP 10.30 (1) (a) 3m. is repealed.

SECTION 4. ATCP 10.30 (1) (b) 2. is amended to read:

ATCP 10.30 (1) (b) 2. Commercial swine imported directly to a federally approved livestock marketing facility under s. ATCP 10.07 (4), if all swine on the market premises the day of the sale are shipped directly to slaughter.

SECTION 5. ATCP 10.30 (2) (b) 2. and 3. are amended to read:

ATCP 10.30 (2) (b) 2. Commercial swine imported directly to a federally approved livestock marketing facility under s. ATCP 10.07 (4), if all swine on the market premises the day of the sale are shipped directly to slaughter.

3. Commercial swine originating from a state designated as a pseudorabies stage IV or V state by the federal bureau and meeting the requirements under sub. (1) (a) 3. a., b. or d.

SECTION 6. ATCP 10.30 (2) (b) 3. (Note) is created to read:

ATCP 10.30 (2) (b) 3. NOTE: The importer of commercial and breeder swine that do not meet the requirements under sub. (1) (a) 3. a., b. or d., must get an import permit from the department. The imported swine will be quarantined by the department until a herd plan is approved by the department. The swine herd on the premises may also be quarantined. See sub. (2) (a) and (d) 2. and s. ATCP 10.291(5). Swine that do not meet the requirements under sub. (1) (a) 3. c. may not be imported to Wisconsin. See sub. (2) (d) 2.

SECTION 7. ATCP 10.30 (2) (b) 5. is created to read:

ATCP 10.30 (2) (b) 5. Swine under sub. (1) (b) 3. and 4.

SECTION 8. ATCP 10.30 (2) (d) is amended to read:

ATCP 10.30 (2) (d) *Herd plan.* 1. The department may ~~not~~ issue an import permit under par. (a) for animals originating from a state designated as a pseudorabies stage I or II state by the federal bureau ~~unless if~~ the person receiving the import shipment has entered into a herd plan with the department.

2. The department may issue an import permit under par. (a) for animals that do not meet the requirements under sub. (1) (a) 3. a., b. or d. The department shall quarantine the imported shipment of swine or the swine herd on the premises, or both until a herd plan under s. ATCP 10.291 (5) is approved by the department. The department may not issue an import permit for animals that do not meet the requirements under sub. (1) (a) 3. c.

SECTION 9. ATCP 10.32 (1) (intro.) and (a) and (b) are renumbered 10.32 (1) (a) (intro.) and 1. and 2., and as renumbered, 10.32 (1) (a) (intro.) is amended to read:

ATCP 10.32 (1) (a) (intro.) *Pseudorabies test required.* Except as provided in ~~sub. (2) par. (b)~~, no person may move commercial swine within this state unless all of the following apply:

SECTION 10. ATCP 10.32 (2) (intro.) and (a) to (e) are renumbered 10.32 (1) (b) (intro.) and 1. to 5., and as renumbered, 10.32 (1) (b) (intro.) and 4. are amended to read:

ATCP 10.32 (1) (b) (intro.) *Exemptions.* ~~Subsection (1) Paragraph (a)~~ does not apply if any of the following apply:

4. The swine are moved to the premises of an animal dealer or animal market operator who complies with the testing requirement under ~~sub. (1) par. (a)~~ before the swine are moved from those premises.

SECTION 11. ATCP 10.32 (2) is created to read:

ATCP 10.32 (2) (a) *Porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test required.* 1. Except as provided in par. (b), no person may move commercial swine within this state unless the herd of origin has tested negative on a porcine reproductive and respiratory syndrome and porcine epidemic diarrhea virus test conducted not more than 90 days prior to the intrastate movement and documentation of the negative test reports are made available to the department upon request.

2. If the swine's herd of origin tests positive for either the porcine reproductive and respiratory syndrome or the porcine epidemic diarrhea virus under par. (a), the department shall quarantine the herd of origin and follow the procedures under ss. ATCP 10.291 (4) and (5) before any swine may be moved from the premises.

3. If commercial exhibition swine originate from Wisconsin and return to Wisconsin after an exhibition in another state, the exhibitor must notify the department of the movement before returning to Wisconsin. The department shall quarantine the returning swine, herd of origin, or both and follow the procedures under ss. ATCP 10.291 (4) and (5) before any swine may be moved from the premises.

(b) *Exemption:* Par. (a) does not apply if any of the following apply:

1. The swine are moved directly to a slaughtering establishment for slaughter.

2. The swine are moved to one fair or exhibition under s. ATCP 10.87 prior to slaughter.

SECTION 12. EFFECTIVE DATE. This rule takes effect on the first day of the first month commencing after the date of publication.