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Details:

(FORM UPDATED: 07/12/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2007-08**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Agriculture (AC-Ag)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)
  - (**ajr** = Assembly Joint Resolution)
  - (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

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

1 The Wisconsin department of agriculture, trade and consumer protection proposes the  
2 following order *to repeal* ATCP 10.01(71)(g)3., 10.55(3)(c) and (d), (4)(c) and (d), and  
3 (5), 10.60(4)(note), 10.61(3)(note), 10.66(1)(c) to (L), 12.02(5), 12.03(6), 12.04(2)(c)3.  
4 and (5), and 17.02(4)(h)11. and 12.; *to renumber and amend* ATCP 10.60(1) ; *to amend*  
5 ATCP 10.01(39) and (59), 10.04(1)(title) and (a)(intro.), 10.08(4) and (5), 10.11(5)(a)1.,  
6 10.15(6), 10.19(2)(b) and (3)(a), 10.22(9)(b), 10.37(1)(a)2., 10.40(1)(d)1., (4)(b)1. and  
7 (6)(c) and (d), 10.41(2) and (6), 10.46(3), (6)(c), (7)(b) and (c), (8), (9)(b) and (11)(c),  
8 10.47(7)(b)6., 10.48(6)(c), 10.52(1)(intro.), 10.53(5)(f)(intro.) and 1., (7)(a)5. and (8)(b),  
9 10.55(4)(b), 10.56(3)(d)1., 10.61(1)(intro.) and (note, first paragraph), (2)(intro.) and (5),  
10 10.62(3)(c), 10.63(2), 10.64(1) and (2), 10.65(1), 10.75, 10.90(1), 10.91(title) and  
11 (1)(intro.), 12.02(1), 12.045(3)(a) and (4), 12.05(4), 12.06(1)(bc), 12.08(6), 17.01(8) and  
12 (28), and 17.02(1) and (note), (2)(a)(note), (2)(b), (4)(d), (5)(d) and (6)(a); *to repeal and*  
13 *recreate* ATCP 10.07(4)(c), 10.22(5)(b)4., 10.42(1)(a), 10.46(title), (1), (4), (5) and (12),  
14 10.51(1) and (2), 10.52(3)(a), (3)(c)2. and (8), 10.53(7)(a)4., 10.56(4)(b), 10.61(3),  
15 (5)(note), (6) and (7), 10.65(4), (4m) and (5)(b)4., 10.66(1)(b), ch. ATCP 10 *Appendix B*,  
16 ATCP 12.045(1) and (note), and 17.02(2)(c) and (4)(h)1. and 8. to 10.; and *to create*  
17 ATCP 10.01(31m) and (63m), 10.04(1)(a)5. and 6., 10.09, 10.15(1)(d), 10.19(2)(a)3.,  
18 10.22(7m), 10.46(6)(em) and (12)(note), 10.47(3)(a)(note), (b)5. and (b)6., (4m), and  
19 (4m)(note), 10.49(4), 10.51(4), 10.53(4)(g) and (g)(note), (5)(f)5., (5)(g) to (i) and

1 (i)(note), and (9)(d), 10.56(1)(d) and (note) and (4)(c) and (note), 10.58, 10.60(1),  
2 10.61(5m), 10.61(12) and (note), 10.62(2)(b)3. and (c)3., 10.64(3), 10.645 and (note),  
3 10.65(4m)(note), 10.655, 10.85, 10.92(1)(r), 12.02(8)(j), 12.03(9)(i), 12.05(6), and  
4 17.02(2)(c)(note) and (4)(bm); *relating to* animal diseases and movement; animal  
5 markets, dealers and truckers; and livestock premises registration.

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

This rule modifies current Wisconsin animal health and disease control rules administered by the Department of Agriculture, Trade and Consumer Protection (“DATCP”). Among other things, this rule:

- Establishes new rules related to viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. This “permanent” VHS control rule is similar, but not identical, to temporary “emergency” VHS control rules previously adopted by DATCP.
- Modifies current rules related to farm-raised deer, including rules related to herd registration, disease control, imports, movement and condemnation. Changes are consistent with proposed federal rules.
- Modifies current rules related to cattle, including rules related to voluntary Johne’s disease testing and classification, tuberculosis import testing, and imports of cattle originating from Mexico.
- Modifies current rules related to poultry imports and enrollment in the national poultry improvement program.
- Modifies current rules related to animal markets, dealers and truckers.
- Modifies current rules related to Wisconsin’s livestock premises registration program. This rule extends the current registration period from one year to 3 years, for the convenience of registrants and to reduce program costs.
- Clarifies current disease indemnity appraisal procedures.

### ***Statutes Interpreted***

Statutes Interpreted: s. 93.07(10), 95.18, 95.19, 95.197, 95.20, 95.22, 95.23, 95.32, 95.36, 95.38, 95.45, 95.51, 95.55, 95.57, 95.60, 95.65, 95.68, 95.69 and 95.71, Stats.

### ***Statutory Authority***

Statutory Authority: ss. 93.07(1) and (10), 95.18, 95.19(3), 95.197(2), 95.20, 95.22(2), 95.32(5), 95.38(3), 95.45(4)(c) and (5), 95.51(7), 95.55(6), 95.57(1), 95.60(3), (4)(c) and (4s), 95.65(2), 95.68(8), 95.69(8) and 95.71(8), Stats.

### ***Explanation of Statutory Authority***

DATCP has broad general authority to adopt rules interpreting statutes under its jurisdiction (*see* s.93.07(1), Stats.). DATCP is specifically authorized to adopt rules to protect the health of animals in this state, and to prevent, control and eradicate communicable diseases among animals.

### ***Related Statutes and Rules***

The Wisconsin department of natural resources (DNR) regulates fencing of captive white-tailed deer herds under s. 90.21, Stats., and has adopted rules under ch. NR 10 related to disease control (including chronic wasting disease control) in wild deer populations.

DNR licenses bait dealers under s. 29.509, Stats., and regulates fishing in waters of the state and fish stocking to waters of the state under chs. NR 19 and 20. DNR rules include rules to control the spread of VHS between public water bodies. Under s. 29.709, Stats., DNR also operates state fish hatcheries and cooperator fish farms that are affected by this rule.

### ***Rule Contents***

DATCP administers Wisconsin's animal health and disease control program. This rule modifies current DATCP rules under chs. ATCP 10 (animal diseases and movement), ATCP 12 (animal markets, dealers and truckers) and ATCP 17 (livestock premises registration).

## Fish

### Fish Farm Registrations

Under current rules, fish farm operators must register fish farms as either a *type 1* or *type 2* fish farm, depending on the activities conducted at the fish farm. Under current rules, a fish farm operator may allow public fishing at a *type 1* or *type 2* fish farm, but may only sell or distribute fish from a *type 2* fish farm (there are limited exceptions).

This rule modifies the scope of a *type 2* fish farm registration, and creates a new *type 3* fish farm registration category. Under this rule:

- An operator may allow public fishing (including public fishing for a fee) at a *type 1*, *type 2* or *type 3* fish farm.
- An operator may not sell or distribute fish from a *type 1* fish farm (there are limited exceptions).
- An operator may sell or distribute fish from a *type 2* or *type 3* fish farm.
- An operator may not sell or distribute fish from a fish farm that receives any fish or fish eggs from wild sources unless that fish farm is registered as a *type 3* fish farm (there are limited exceptions).

This rule clarifies fish farm registrations:

- A fish farm registration is limited to a single fish farm location (a single land parcel or contiguous land parcels). All of the fish farm facilities on contiguous parcels may be registered as a single fish farm.
- Fish farms on non-contiguous land parcels must be registered as separate fish farms.
- A person may register 2 or more fish farms in a single application process.
- An operator may register 2 or more fish farms located on the same land parcel, or on contiguous land parcels, subject to the following conditions:
  - The fish farms must be “medically-separated.” DATCP must inspect the fish farms to confirm that they are “medically separated” (DATCP will charge an inspection fee of \$400 per day of inspection).
  - Each fish farm is considered a separate fish farm for purposes of disease control and movement.
  - Fish or fish eggs moved between the fish farms must be accompanied by a fish health certificate, and the operator must keep a record of the movement.

## Registrant Responsibility

This rule clarifies that a person who registers a fish farm is responsible for ensuring that fish farm operations comply with DATCP rules. However, this rule does not relieve other persons of liability for rule violations that they commit.

## Viral Hemorrhagic Septicemia; Expanded Testing

VHS is a serious disease of fish. VHS has been found in Lake Michigan and the Lake Winnebago system, but has not yet been reported in any Wisconsin fish farm. The United States Department of Agriculture (USDA) has identified fish species that are known to be susceptible to VHS.

Current DATCP “permanent” rules require health certificates for all of the following:

- Fish and fish eggs (including bait) imported into Wisconsin.
- Fish and fish eggs stocked into Wisconsin public waters.
- Fish and fish eggs moved between Wisconsin fish farms.

Under current DATCP “permanent” rules, *import* health certificates must include VHS testing if the import shipment includes salmonids (salmon, trout, etc.) or originates from a state or province where VHS is known to occur. However, current “permanent” rules do not require VHS testing for any of the following:

- Fish or fish eggs stocked into Wisconsin public waters from *Wisconsin* sources.
- Bait fish or fish eggs originating from *Wisconsin* sources.
- Fish or fish eggs moved between Wisconsin fish farms.
- Non-salmonids imported from states (such as Minnesota) where VHS has not yet been found.

DATCP recently adopted temporary “emergency” rules to expand VHS testing requirements. This rule adopts those VHS testing requirements on a “permanent” basis. This rule is similar, but not identical, to the temporary emergency rules.

Under this rule, a fish health certificate and VHS testing are required for all of the following fish and fish eggs if they are of a *known VHS-susceptible species* and were either (1) collected from a wild source in any state within the preceding 12 months, or (2) kept on a *type 3* fish farm in this state:

- Fish or fish eggs stocked into Wisconsin public waters. There is a limited exemption (see below) for fish or fish eggs reintroduced to the same water body from which they are collected.
- Fish moved between Wisconsin fish farms, or from a Wisconsin fish farm to any other place (there are limited exemptions for fish shipped to food processing or retail food establishments).

- Fish or fish eggs distributed by a bait dealer for use as bait. The bait fish testing requirement will initially apply to emerald shiners (a known VHS-susceptible species), but will *not* initially apply to other major bait species such as fathead minnows, white suckers and golden shiners (which are not yet known to be VHS-susceptible). However, it could eventually apply to other species if USDA finds that those species are also VHS-susceptible. A retail bait dealer is not required to conduct duplicate tests on fish previously tested by a wholesale bait dealer.

This rule also does the following:

- Prohibits any person from selling bait fish *of any kind* if the seller has reason to know that the bait is affected with VHS or another reportable disease.
- Provides that a fish health certificate covering a fish farm or fish shipment becomes immediately void if fish or fish eggs not covered by a valid fish health certificate are added to the covered fish farm or fish shipment.

#### **Fish Reintroduced to Same Water Body; Testing Exemption**

Under this rule, fish or fish eggs reintroduced to the same public water body from which they are collected are exempt from VHS and other disease testing requirements if all of the following apply (a veterinarian or fish health inspector must still issue a fish health certificate based on a visual examination):

- DATCP issues a permit for the reintroduction.
- DNR approves the collection and reintroduction.
- The fish or fish eggs are not commingled with fish or fish eggs from any other water source.
- The fish or fish eggs are reintroduced into the same lake from which they were collected, or at the same point or a downstream point in the same river system from which they were collected.
- The fish or fish eggs are reintroduced within 30 days after they are collected, or within 30 days after the fish eggs hatch, whichever is later.
- The fish or fish eggs are reintroduced for the purpose of increasing or rehabilitating the population of a desirable sport fishing species.

## **Operator Moving Fish between the Operator's Own Fish Farms; Testing and Health Certificate Exemption**

This rule clarifies that, when an operator (including DNR) moves fish or fish eggs between the operator's own fish farms in this state, the operator is exempt from health certificate requirements, VHS testing requirements, and other disease testing requirements under this rule unless the operator does one of the following:

- Moves fish or fish eggs from a *type 3* fish farm to a *type 1* or *type 2* fish farm.
- Moves fish or fish eggs between fish farms that are required to be medically separated.

A fish farm operator must make a record of each movement of fish or fish eggs between the operator's fish farms, regardless of whether health certificate or testing requirements apply. An operator may not move fish or fish eggs if the operator knows or has reason to know that the fish or fish eggs are affected with a reportable disease such as VHS. DATCP may also issue quarantine and other disease control orders to individual fish farm operators, as necessary.

## **VHS Test Reports**

Under this rule, a veterinarian or fish health inspector who tests fish in this state for viral hemorrhagic septicemia (VHS) must report the test result to DATCP, regardless of whether the test result is positive or negative.

## **Farm-Raised Deer**

### **Chronic Wasting Disease Test Reports**

Under this rule, a veterinarian who tests a farm-raised deer in this state for chronic wasting disease must report the test result to DATCP, regardless of whether the test result is positive or negative.

### **Herd Registration; General**

Under current rules, no person may keep farm-raised deer at any location in this state unless DATCP has issued a current annual registration certificate authorizing that person to keep farm-raised deer at that location. An annual registration certificate currently expires on December 31 of each year. This rule changes the annual expiration date to March 15, beginning with the first registration year beginning on or after the effective date of this rule.

### **One Registered Herd Kept at 2 or More Locations**

This rule clarifies that a single registered farm-raised deer herd may include farm-raised deer kept at 2 or more locations, subject to the following conditions:



- All of the locations must be identified in the herd registration certificate.
- All of the herd locations must be actively enrolled in Wisconsin's chronic wasting disease herd status program.
- All farm-raised deer covered by the registration certificate must be treated as members of a single herd, for purposes of disease control and movement.

The registrant may move farm-raised deer between locations identified in the same herd registration certificate *without* a certificate of veterinary inspection if all of the following apply:

- Those farm-raised deer are identified with official individual identification.
- The registrant keeps a detailed record of the movement.

### **Two or More Registered Herds Kept at the Same Location**

Under this rule, separately-registered farm-raised deer herds may be kept at the *same location* (even if they are owned by different registrants) subject to the following conditions:

- The registrant(s) must declare whether the herds are “medically separated” or not. “Medically separated” herds must be kept in separate enclosures, under conditions that effectively preclude disease transmission between the herds. DATCP must inspect “medically separated” herds to verify the separation. DATCP will charge an inspection fee of \$150 (\$200 after July 1, 2009), as provided in current rules.
- If the herds are “medically separated:”
  - Each herd is considered a separate herd for purposes of disease control, movement, and enrollment in Wisconsin's chronic wasting disease herd status program.
  - Farm-raised deer moved between any of the herds must be accompanied by a certificate of veterinary inspection, and registrants must keep a detailed record of each movement.
- If the herds are *not* “medically separated:”
  - All of the farm-raised deer covered by the herd registrations are collectively treated as a single herd for purposes of disease control and movement, regardless of location or ownership, and regardless of whether they are part of the same registered herd.
  - Farm-raised deer may be moved between any of the herd locations identified on any of the herd registration certificates, without a certificate of veterinary inspection, provided that they are identified with official individual identification. Registrants must keep detailed records of the movements.

- All of the herds, including all locations covered by the herd registration certificates, must be actively enrolled in Wisconsin's chronic wasting disease herd status program.

### **Chronic Wasting Disease Tests**

Under this rule, a chronic wasting disease test sample must be collected from a farm-raised deer within 7 calendar days after the animal dies, or is killed or slaughtered (or within 7 calendar days after the death is first discovered). Under this rule, as under the current rules, the test sample must be sent to an approved laboratory within 10 calendar days after it is collected.

### **Condemnation of Farm-Raised Deer**

This rule clarifies current rules related to DATCP condemnation of diseased or suspect farm-raised deer. Under this rule, a condemnation order may do all of the following:

- Specify a reasonable deadline for destruction of the condemned animals.
- Direct appropriate disease testing and disposition of the carcasses.
- Require the herd owner or custodian to enter into a "premises plan" as a condition to the payment of state indemnities. The "premises plan" may require the herd owner or custodian to clean and disinfect the herd premises, limit future cervid movement to and from the premises, or comply with other requirements that are reasonably designed to prevent the spread of disease. A "premises plan" may include a restrictive covenant, such as a fence maintenance requirement, that is binding on subsequent property owners for the duration of the agreement.

Under current rules, the owner of condemned farm-raised deer may apply for state indemnity payments. Under this rule, an application for indemnity payments must include proof of compliance with DATCP's condemnation order.

### **Chronic Wasting Disease Herd Status Program; Annual Census**

Under current rules, no person may move farm-raised deer from a herd in this state unless the herd is enrolled in Wisconsin's chronic wasting disease herd status program. Enrollees must, among other things, submit an annual herd census to DATCP. Among other things, an annual herd census must report the number, species and sex of animals that have left the herd since the last annual census, and how those animals left the herd. Under this rule, an annual herd census must also include:

- A report of apparent escapes, including approximate escape dates and circumstances, and steps taken to prevent recurring escapes.

- An explanation and accounting for overall changes in herd population since the last annual census.
- Census verification by a Wisconsin certified veterinarian if required by the department.

### **Chronic Wasting Disease Herd Status Program; Failure to Comply with Testing Requirements**

Under current rules, the owner of a herd enrolled in the chronic wasting disease herd status program must test every herd member, at least 16 months old, that dies or is slaughtered. Under current rules, DATCP may suspend a herd's enrollment if the herd owner willfully fails to test even a single test-eligible animal that dies or is slaughtered. However, some animals may die in wooded areas and not be discovered until it is too late to test them. In other cases, it may be hard to tell whether a missing animal died or escaped. So, absent evidence of a willful failure to test, DATCP normally applies an enforcement "tolerance" provided in current rules.

Under the current "tolerance," DATCP may summarily suspend a herd enrollment if the herd owner tested fewer than 92% of the farm-raised deer that left the herd by death, escape or slaughter in any 2 of the 5 preceding herd census years (including any farm-raised deer whose remains were not testable because of deterioration when found). This rule changes and clarifies the current "tolerance." Under this rule, DATCP may summarily suspend a herd enrollment if the herd owner does any of the following:

- Willfully fails to test any herd member, at least 16 months old, which dies or is slaughtered.
- Tests fewer than 90% of the farm-raised deer that leave the herd by death, escape or slaughter in *any* herd census year.

Under this rule, DATCP *may* reinstate a suspended herd enrollment if the herd owner does any of the following (DATCP may require other reinstatement conditions):

- Tests at least 95% of the deer that leave the herd by death, escape or slaughter in the *next* herd census year.
- Kills and tests, within 60 days of the summary suspension, a number of test-eligible animals equal to at least 90% of the number that the herd owner failed to test (during the census year in which the herd owner failed to meet the testing standard). An animal is test-eligible, for purposes of reinstatement testing, if it is at least 16 months old and has been in the herd for at least 120 days.

## **White-tailed Deer Herd; Fence Certificate**

Under current law, fences for farm-raised white-tailed deer herds must be approved by DNR, and must comply with DNR rules. Under this rule, a person applying for a DATCP registration certificate to keep white-tailed deer must include, with the application, a copy of a valid DNR fence certificate for each registered location.

## **Hunting Preserves**

Under current law, a person operating a farm-raised deer hunting preserve must hold a hunting preserve registration certificate from DATCP (a certificate is valid for 10 years). Current rules spell out hunting preserve registration standards and application requirements. Under this rule, an application must also include all of the following:

- An estimate of the farm-raised deer population on the hunting preserve premises, by species, age and sex.
- The identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers.

Under this rule, all non-natural additions to a hunting preserve must have 2 forms of official individual identification, one visible and one implanted.

## **Disease-Free Certification of Farm-Raised Deer**

### *Certification Period*

Under current rules, DATCP may certify a herd of farm-raised deer as brucellosis-free or tuberculosis-free, or both, based on herd test results provided by the herd owner. Participation is voluntary, but disease-free herd certification facilitates the sale and movement of farm-raised deer. Herd certification is generally governed by federal rules (“uniform methods and rules”) that DATCP has incorporated by reference in its rules.

Under current federal rules, tuberculosis-free herd certification is good for 3 years, while brucellosis-free herd certification is good for only 2 years. USDA proposes to harmonize the certification terms, but has not yet adopted the necessary rule changes. USDA has authorized DATCP to harmonize the terms in Wisconsin by state rule.

This rule extends brucellosis-free herd certification from 2 years to 3 years (a herd owner may request a shorter term), consistent with tuberculosis-free herd certification. That will allow herd owners to conduct simultaneous tests for both diseases. Simultaneous testing will reduce testing costs and limit stress on tested deer.

### *Testing for Certification*

Under current federal rules, 2 whole herd tests are required in order to certify a farm-raised deer herd as a tuberculosis-free herd, while 3 whole herd tests are required in order to certify a farm-raised deer herd as a brucellosis-free herd. USDA proposes to harmonize the testing requirements, but has not yet adopted the necessary rule changes. USDA has authorized DATCP to harmonize the testing requirements in Wisconsin by state rule.

This rule reduces the number of whole herd tests required in order to certify a farm-raised deer herd as a brucellosis-free herd, from 3 whole herd tests to 2 whole herd tests, consistent with the testing requirement for tuberculosis-free herd certification.

This rule also clarifies that DATCP may transfer a herd certification to a new herd owner, or grant equivalent certification status to a new herd created from an existing certified herd, if the herd meets certification standards and the owner applies for certification within 90 days of acquiring the farm-raised deer.

### **Tuberculosis in Farm-Raised Deer**

Under current rules, a farm-raised deer must be slaughtered within 15 days if it is found to be a tuberculosis reactor, except that DATCP may extend the slaughter deadline by up to 15 days. Under this rule, DATCP may extend the slaughter deadline by up to 30 days.

### **Importing Farm-Raised Deer**

Farm-raised deer imported to this state must meet standards specified in current rules. Among other things, the imported animal must meet one of several alternative requirements related to tuberculosis status. This rule modifies current import standards, based on current federal standards for interstate movement. This rule eliminates current requirements for post-import testing.

### **Moving Farm-Raised Deer Within Wisconsin**

Farm-raised deer may not be moved from a registered herd in this state unless they meet standards specified in current rules (there are limited exemptions, including an exemption for animals shipped directly to slaughter). Among other things:

- The herd must have been continuously enrolled in Wisconsin's chronic wasting disease herd status program for at least 5 years. Under this rule, if 2 or more wild deer found or killed within 5 miles of the enrolled herd test positive for chronic wasting disease, the enrolled herd must also be enclosed by a DATCP-approved double protective barrier to prevent contact with infected wild deer.

- The farm-raised deer must meet one of several alternative requirements related to tuberculosis status. Under one alternative, a farm-raised deer may qualify for movement if it tests negative on 2 tuberculosis tests, where the 2<sup>nd</sup> test is performed within 360 days prior to movement. Under this rule, the second test must be conducted within 90 days prior to movement.

### **Returning Escaped Farm-Raised Deer to a Herd**

Under current rules, an escaped farm-raised deer must be reported within 24 hours. This rule clarifies that the herd owner must report the escape within 24 hours after the herd owner knows or has reason to know of the escape. The report must include the location of the escape, the apparent date and time of the escape, and the circumstances that resulted in the escape.

Under this rule, if an escaped farm-raised deer is returned to the herd, the herd owner must also report the return within 24 hours after it occurs. The report must include the apparent number of hours that elapsed between the escape and the return. If an escaped farm-raised deer is returned to the herd more than 72 hours after it escapes (24 hours if it escapes to a wild deer disease control area designated by DNR), it loses any status that it may have had under a herd certification or status program, and is treated as a new addition to the herd. That may affect the overall certification status of the herd (if an escaped animal is not returned to the herd, the herd's certification status is not affected).

## **Cattle**

### **Johne's Disease Testing and Herd Classification**

DATCP currently administers a voluntary herd testing and classification program related to Johne's disease in cattle. Herd testing and classification is conducted according to federal standards adopted by USDA. This rule incorporates the latest version (2006) of the USDA standards.

Under current rules, Johne's disease test samples must be collected by an accredited veterinarian, by an individual working under direct supervision of an accredited veterinarian who submits the sample for testing, or by an authorized DATCP or USDA employee or agent. Under this rule, a milk sample for Johne's disease testing may also be collected by a Dairy Herd Improvement Association (DHIA) authorized technician or a certified veterinary technician.

### **Imported Cattle and Bison; TB Test Exemption**

Current rules exempt imported bovine animals (cattle and bison) from the requirement of a pre-import tuberculosis test if the animals originate from a state that USDA has classified as "TB-free" if that state accepts Wisconsin animals without a TB test.

Under this rule, the exemption does not apply if the state of origin has a confirmed TB-positive herd, until that herd is depopulated and all epidemiologically-linked herds have tested negative for TB.

### **Cattle and Bison from Mexico**

Under this rule, no person may import an “M-branded” bovine animal (cattle or bison) to this state, except directly to slaughter. “M-branded” animals are animals branded with the letter “M” to signify that they have been imported from Mexico.

## **Poultry**

### **National Poultry Improvement Plan Enrollment**

Under current rules, a poultry flock owner may enroll the flock in the national poultry improvement program (DATCP administers the program in this state). Enrollment facilitates the sale and movement of poultry. Under this rule, a flock may not be enrolled in the program unless the flock premises have been registered under Wisconsin’s livestock premises registration program (the premises ID number must be included on the enrollment application).

### **Showing Poultry**

This rule clarifies that poultry enrolled in the National Poultry Improvement Plan or in the Wisconsin Tested Flock program may attend shows and exhibitions without losing status as long as all poultry at the show or exhibition have tested negative for pullorum, fowl typhoid and in the case of turkeys, *Mycoplasma gallisepticum*.

### **Poultry Imports**

Under current rules, poultry may not be imported to Wisconsin unless they are accompanied by a valid certificate of veterinary inspection that certifies *all* of the following:

- They originate from flocks enrolled in the national poultry improvement plan.
- They originate from flocks classified as “U.S. pullorum-typhoid clean” and, in the case of turkeys and turkey eggs, “*Mycoplasma gallisepticum* clean” under the national poultry improvement plan.

This rule changes current poultry import requirements. Under this rule, poultry may not be imported to Wisconsin unless they are accompanied by a valid certificate of veterinary inspection that certifies *at least one* of the following:

- They originate from flocks classified as “U.S. pullorum-typhoid clean” and, in the case of turkeys and turkey eggs, “Mycoplasma gallisepticum clean” under the national poultry improvement plan or under an equivalent plan approved by DATCP.
- All test-eligible birds have tested negative for pullorum, fowl typhoid and, in the case of turkeys, Mycoplasma gallisepticum within 90 days prior to import. Tested birds must bear official individual identification, and there may be no change of ownership between the test sampling date and the import date.

### **Llamas and Alpacas**

Under this rule, a llama or alpaca imported to Wisconsin must be accompanied by a certificate of veterinary inspection that includes the official individual identification of the llama or alpaca.

### **Illegally Moved Animals**

Under current rules, DATCP may issue a temporary animal holding order whenever DATCP has reason to believe that animals may have been illegally imported. DATCP may also issue the destruction of an illegally imported animal. Under this rule, DATCP may also order temporary holding orders and destruction orders for animals that are illegally moved within this state.

### **Animal Markets**

#### **General**

This rule does all of the following:

- Eliminates the current requirement for animal market operators to pass a test before being initially licensed by DATCP.
- Requires animal market operators to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal market operators to record the official individual identification of goats, if the goats bear official individual identification.
- Requires animal market operators to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.



## **Federally-Approved Livestock Import Markets**

Under current rules, certain livestock imported to a federally-approved livestock import market in this state are exempt from Wisconsin import requirements, provided that they meet those requirements before *leaving* the market. Under this rule, before the animals leave the market, the market operator must also disclose the animals' state of origin to the animal purchaser.

### **Animal Dealers**

This rule does all of the following:

- Eliminates the current requirement for animal dealers to pass a test before being initially licensed by DATCP.
- Requires animal dealers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal dealers to record the official individual identification of goats, if the goats bear official individual identification.
- Requires animal dealers to record the livestock premises code, if any, of each premises from which the dealer receives or to which the dealer ships livestock.

### **Animal Truckers**

This rule does all of the following:

- Eliminates the current requirement for animal truckers to pass a test before being initially licensed by DATCP.
- Eliminates the current license exemption for animal truckers that haul animals for other persons fewer than 6 times per license year.
- Requires animal truckers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal truckers to record the livestock premises code, if any, of each premises from which the trucker receives or to which the trucker ships livestock.

## **Slaughter Establishments**

Under current rules, no person may remove livestock from a slaughter establishment after the livestock have been weighed and purchased by the slaughter establishment. Under this rule, no person may remove livestock from a slaughter establishment after they have been off-loaded at the slaughter establishment.

## **Disease Indemnities**

Under current law, DATCP may condemn and order the destruction of animals to prevent the spread of serious diseases. In some cases, the owner of the diseased animals may be eligible for state indemnity payments. Under this rule, if the owner of a diseased animal is eligible for state indemnities, and if the animal is of a type not frequently sold at public auction, DATCP must appoint a knowledgeable independent appraiser to determine the value of the animal. The appraiser must determine appraised value based on the animal's size, species, sex, and grade or quality, and by relevant information related to prevailing market prices for animals of that size, species, sex, and grade or quality.

## **Reportable Diseases**

Under current rules, whenever certain diseases are diagnosed in this state, they must be reported to DATCP. Some diseases must be reported within one day, while other diseases must be reported within 10 days. This rule modifies the current list of diseases that must be reported within 10 days. The new list:

- Consolidates, but does not alter, the list of fish diseases that must be reported within 10 days. Some reportable fish diseases are currently listed in the rule text, while others are listed in an appendix. This rule consolidates all of them in the appendix.
- Corrects an error in the current list (Marek's disease is an avian disease, not a mollusk disease).

## **Prohibited Practices**

This rule prohibits any person from selling, moving or disposing of a live animal that has been tested for a reportable disease, before the results of that disease test are known.

## **Livestock Premises Registration**

### **Registration Renewal Period**

Under current law, a person keeping livestock in this state must register each location where those livestock are kept. "Livestock" includes bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, captive game birds, camelids, ratites and fish.

Under current DATCP rules, a person must renew a livestock premises registration every year. This rule extends the current renewal period, for the convenience of registrants and to reduce state costs. Under this rule, a person will only be required to renew once every 3 years.

### **Who May Register**

Under current rules, if *person A* feeds and cares for livestock owned by *person B*, on premises owned by *person C*, any of those persons may register the premises (the others need not). However, if the premises are part of an operation (such as a dairy farm) that DATCP licenses under other applicable law, current rules provide that *only the license holder* may register the premises. This rule eliminates that restriction, so that any eligible person (including, but not limited to, the license holder) may register the premises. This rule retains a current rule provision which allows an applicant for an initial license (such as an initial dairy farm license) to register the livestock premises as part of that initial license application.

### **Other Changes**

This rule makes a number of other minor drafting changes designed to update, clarify and correct current rules.

### ***Fiscal Impact***

This rule will not have a significant state or local fiscal impact, except that the fish health provisions of this rule will have the following impact on DNR and DATCP (a complete fiscal estimate is attached):

### **Impact on DNR**

This rule will have a fiscal impact on DNR fish hatchery and stocking operations. Under this rule, all VHS-susceptible fish and fish eggs (including VHS-susceptible bait species) must be tested for VHS before being stocked to Wisconsin public waters if they were either (1) collected from a wild source within the preceding 12 months or (2) kept on a *type 3* fish farm in this state.

DNR annually registers approximately 100 fish farms with DATCP. Thirteen of those fish farms are state-owned fish hatcheries. The remainder are registered by DNR but owned by private DNR “cooperators” (as registrant, DNR assumes legal responsibility for compliance with fish health rules). DATCP estimates that DNR will need to conduct VHS tests on a combined total of approximately 120 lots of fish per year (including fish at state hatcheries and “cooperator” fish farms registered by DNR).

Assuming an average test cost of \$500 per lot, the total cost to DNR would be approximately \$60,000 per year. However, DNR has already implemented a number of internal controls and VHS testing protocols, so the added cost of this rule will be less than \$60,000. DNR costs may increase if USDA finds that additional fish species are susceptible to VHS (the amount of the increase will depend on which fish species are found to be susceptible).

Under this rule, fish and fish eggs are exempt from VHS and other fish health testing requirements if they are reintroduced into the same body of water from which they were collected, for the purpose of increasing or rehabilitating a desirable sport fish population. (DATCP and DNR must approve the reintroduction, and a veterinarian or fish health inspector must still issue a fish health certificate based on a visual inspection.) This exemption will make it easier for DNR, local governments and others to continue programs (including so-called “walleye wagon” programs) to supplement the natural reproduction of important sport fish species.

### **Impact on DATCP**

DATCP expects to incur added costs to administer and enforce the fish health testing requirements under this rule. DATCP estimates that 2.0 FTE positions will be needed to review and process a large volume of fish health certificates in a timely manner; to train fish health inspectors to collect samples for VHS testing; to provide compliance information and respond to industry inquiries; to conduct inspections and monitor compliance; to conduct investigations of possible law violations; and to initiate enforcement actions if necessary.

The 2.0 FTE staff will have a combined total cost of approximately \$120,000 per year, including salary, fringe benefits and support costs. DATCP will absorb these costs in the short term by shifting staff from other important disease control responsibilities, but DATCP will not be able to do so indefinitely without putting other livestock sectors at unacceptable risk. DATCP has received some federal grant funds to cover some of the costs, but federal funding is not guaranteed to continue.

## ***Business Impact***

### **Aquaculture Industry**

This rule creates new regulations to control viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. This rule will affect fish farm operators and bait dealers. This rule will also affect DNR, as explained in the fiscal estimate for this rule.

This rule will benefit the aquaculture industry by helping to control the spread of VHS, a very serious disease of fish. This rule will also benefit fish farm operators, by simplifying current fish farm registration requirements (operators will be able to register

multiple fish farms on a single registration form). However, this rule may add costs or limit operations for some fish farmers and bait dealers, as described below.

### *Fish Farm Operators*

DATCP estimates that this rule will affect 30-40 private fish farms, not counting DNR “cooperator” fish farms registered by DNR. Many of the affected fish farms are “small businesses,” and many of them will be substantially affected by this rule. VHS testing requirements may force some fish farm operators to curtail all or part of their operations. However, some fish farms already conduct VHS tests in order to meet federal requirements for interstate movement of fish.

Fish farm operators may incur added testing requirements under this rule if they keep VHS-susceptible fish or fish eggs that were either (1) collected from any wild source within the preceding 12 months, or (2) kept on a *type 3* fish farm in this state. Operators must test those VHS-susceptible fish or fish eggs before they distribute them for bait, for stocking to Wisconsin public waters, or for delivery to other fish farms (other than those registered as a type 3 fish farm by the same operator).

A veterinarian or other qualified fish health inspector must certify that the fish or fish eggs are VHS-free, based on tests using approved methods. VHS tests must be conducted on a statistically representative sample of fish drawn from the tested species or farm. The average cost to test and certify a single lot of fish is approximately \$500 (actual costs vary depending on test method, number of fish in the lot, number of fish species in the lot, etc.). A single fish farm might need to test from 1-30 lots per year, depending on the source and species of the fish, the number of separate fish lots kept on the fish farm, and purposes for which the fish are kept and distributed.

DATCP estimates that approximately 30-40 private fish farm operators will need to conduct VHS tests, and that they will conduct those tests on a combined total of approximately 40 lots of fish per year. Assuming an average cost of \$500 per test per lot, the *combined total cost to all affected private fish farm operators* will be approximately \$20,000 per year.

However, some of those affected fish farmers are already performing VHS tests in order to meet federal requirements for shipping fish in interstate commerce, so the net impact of this rule may be less than \$20,000. Fish farm costs may increase if USDA finds that additional fish species are susceptible to VHS (the amount of the increase will depend on which fish species are found to be susceptible).

### *Bait Dealers*

Wisconsin bait dealers are currently licensed by DNR. This rule will affect licensed bait

- If bait dealers buy VHS-susceptible bait species that originate from wild sources, their purchase costs may reflect the seller's added cost of VHS testing under this rule.
- If bait dealers collect VHS-susceptible bait species from wild sources, they will need to conduct VHS tests before reselling or distributing the bait. They will also need to withhold the bait from distribution for at least 4 weeks pending the completion of VHS tests. That will add costs, and may not be practically feasible for affected bait dealers.

This rule applies only to bait species that are known to be susceptible to VHS. Of the major bait species in Wisconsin (fathead minnow, white sucker, golden shiner and emerald shiner), only one species (emerald shiner) is currently known to be susceptible to VHS. Emerald shiners are obtained exclusively by wild harvesting, while other major bait species can be hatched and raised on farms. At this time, DATCP estimates that emerald shiners represent less than 10% of the overall bait market in Wisconsin (the market for wild-harvested emerald shiners has already diminished as a result of federal VHS testing requirements for emerald shiners moved in interstate commerce).

DATCP estimates that approximately 25 Wisconsin bait dealers are currently harvesting emerald shiners from the wild. DATCP estimates that each of those bait dealers would need to test an average of 6 lots of wild-harvested emerald shiners each year, before distributing the emerald shiners for sale. Assuming an average cost of \$500 per test lot, the average annual cost for an individual bait dealer would be about \$3,000 per year, and the combined total cost to all 25 of those bait dealers would be about \$75,000 per year. That figure does *not* include added costs to hold the emerald shiners for 4 weeks while testing is completed. It is extremely difficult to hold emerald shiners for extended periods, so it may not even be possible for most bait dealers to hold them for the required 4 weeks.

The difficulty of holding emerald shiners for 4 weeks, combined with the added cost of testing emerald shiners, may drive many bait dealers out of the business of harvesting wild emerald shiners for sale as bait. However, those bait dealers may still be able to harvest and sell other types of bait that are not affected by this rule.

Bait dealers that are not currently harvesting emerald shiners will not be substantially affected by this rule unless USDA finds that additional bait species are susceptible to VHS. If USDA finds that other major bait species are susceptible to VHS, this rule could have a more dramatic impact on bait dealers. The impact will depend on the species that are affected.

### **Farm-Raised Deer Keepers**

This rule changes current rules related to farm-raised deer. This rule makes all of the following changes:

- Requires veterinarians who perform chronic wasting disease (CWD) tests to report test results to DATCP.
- Changes the annual expiration date for farm-raised deer herd registrations, from December 31 to March 15.
- Clarifies that a person may keep farm-raised deer at 2 or more locations identified in a single herd registration certificate, subject to specified conditions.
- Clarifies that separately-registered farm-raised deer herds may be kept at the *same location* (even if they are owned by different persons), subject to specified conditions.
- Modifies current CWD testing requirements. Under current rules, a test must be performed on every farm-raised deer at least 16 months old that dies in captivity, or is killed or sent to slaughter (the test sample must be sent to an approved laboratory within 10 days after it is collected). Under this rule, a test sample must be collected within 7 calendar days after the animal dies, or is killed or slaughtered (or within 7 calendar days after the death is first discovered). Under this rule as under the current rules, the test sample must be sent to an approved laboratory within 10 calendar days after it is collected.
- Clarifies current rules related to DATCP condemnation of diseased or suspect farm-raised deer. Under this rule, a condemnation order may specify a reasonable compliance deadline, may direct appropriate testing and disposition of carcasses, and may require the herd owner or custodian to enter into a “premises plan” as a condition to the payment of state indemnities.
- Clarifies annual herd census requirements under Wisconsin’s chronic wasting disease herd status program. Under this rule, an annual herd census must report apparent escapes, and must explain and account for changes in herd population since the last census.
- Modifies current rules related to reports of escaped farm-raised deer. A herd owner must report an escape to DATCP within 24 hours after the herd owner knows, or has reason to know, of the escape. If the escaped deer is returned to the herd, the herd owner must also report the return within 24 hours. An animal returned more than 72 hours after it escapes (24 hours in a wild deer disease control zone designated by DNR) loses any status that it may have had under a herd certification or status program, and is considered a new addition to the herd. That may affect the overall herd status (if an escaped animal is not returned to the herd, there is no effect on herd status).

must include, with the registration application, a copy of a valid DNR fence certificate (currently required by law) for each registered location.

- Clarifies that a person applying for a 10-year hunting preserve certificate from DATCP must include, in the application, an estimate of the farm-raised deer population on the hunting preserve premises (by species, age and sex). The application must also include the identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers. Under this rule, all non-natural additions to a hunting preserve must have 2 forms of official individual identification, one visible and one implanted.
- Extends the term of a brucellosis-free herd certification, from 2 years to 3 years, so that it is consistent with the term of a tuberculosis-free herd certification. That will allow herd owners to conduct simultaneous tests for both diseases.
- Allows DATCP to extend the 15-day slaughter deadline for tuberculosis reactors by up to 30 days (current rules allow only a 15-day extension).
- Modifies current tuberculosis regulations for imports of farm-raised deer, to make them consistent with federal standards for interstate movement. This rule also eliminates current requirements for post-import testing.
- Clarifies current rules related to movement of farm-raised deer from registered herds in this state. Under current rules, farm-raised deer may not be moved unless the herd has been enrolled in the farm-raised deer herd status program for at least 5 years. Under this rule, if 2 or more wild deer killed within 5 miles of the deer farm have tested positive for chronic wasting disease, farm-raised deer may not be moved from the deer farm unless the deer farm is double-fenced to prevent contact with infected wild deer.

Most of the changes in this rule are designed to clarify current rules, or to make current rules consistent with federal rules. The rule changes will have minimal impact on most farm-raised deer keepers, and will reduce costs and facilitate deer farm operations in many cases. Some deer farms located in areas where wild deer are infected with chronic wasting may incur added costs (for double fencing) if they wish to ship farm-raised deer other than to slaughter. Clear and effective rules will help prevent and control chronic wasting disease and other diseases, for the benefit of the entire farm-raised deer industry.

This rule requires additional (implanted) ID tags for farm-raised deer entering hunting preserves, to facilitate disease traceback. The cost of the additional tag is estimated at less than \$5 per farm-raised deer. In recent years, USDA has paid for implanted ID tags (future funding is uncertain).



## **Cattle and Goat Producers**

Under current rules, Johne's disease test samples must normally be collected by accredited veterinarians. This rule allows Dairy Herd Improvement Technicians or certified veterinary technicians to collect milk samples that are used as Johne's disease test samples. That will make it easier, and less costly, for dairy farmers to participate in the Johne's disease herd testing and management program.

Current rules exempt imported bovine animals (cattle and bison) from the requirement of a pre-import tuberculosis test if the animals originate from a state that USDA has classified as "TB-free" if that state accepts Wisconsin animals without a TB test. Under this rule, the exemption does not apply if the state of origin has a confirmed TB-positive herd, until that herd is depopulated and all epidemiologically-linked herds have tested negative for TB.

This rule also prohibits imports of cattle originating from Mexico, except directly to slaughter. This rule will help prevent imports of diseased cattle, and provide important protection for Wisconsin's livestock industry. It will not have significant adverse effects on the livestock industry.

## **Poultry Producers**

Under current rules, a poultry flock owner may voluntarily enroll in the National Poultry Improvement Plan (enrollment facilitates the sale and movement of poultry). Under this rule, a flock owner may not enroll unless the owner has registered flock premises under Wisconsin's livestock premises identification program. This will not have a significant impact on flock owners, because registration is already required by law.

Current rules regulate poultry imports to Wisconsin. This rule modifies poultry import standards, to provide more flexible options for poultry importers. This rule will have no adverse impact on poultry importers.

## **Animal Markets, Dealers and Truckers**

This rule does all of the following:

- Eliminates the current requirement for animal market operators, animal dealers and animal truckers to pass a test before being initially licensed by DATCP.
- Requires animal market operators, animal dealers and animal truckers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.

- Requires animal market operators, animal dealers and animal truckers to record the official individual identification of goats that bear official individual identification.
- Requires animal market operators, animal dealers and animal truckers to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.
- Requires operators of federally-approved livestock import markets to disclose, to livestock recipients, the state of origin of livestock leaving the import market.

This rule will simplify licensing of animal market operators, dealers and truckers, by eliminating current testing requirements. This rule will require some animal market operators, dealers and truckers to make minor changes in recordkeeping and operating procedures. Recordkeeping changes will improve disease control and traceback capability, for the benefit of the entire livestock industry. This rule will not have any significant adverse effect on animal market operators, dealers or truckers.

### **Persons Keeping Livestock; Premises Registration**

Under current law, a person who keeps livestock at a location in this state is required to register that location with DATCP. Under current rules, the person must renew the registration annually. If the person holds another license from the department, the person must register as part of the license application process.

This rule extends the renewal period from one year to 3 years. Under this rule, a license holder may register as part of the license application process but is not required to do so (the person may register separately). These changes will make it easier and more convenient for livestock operators to comply with premises registration requirements. This rule will have no adverse impact on the livestock industry.

### **Slaughter Establishments**

This rule clarifies the current prohibition against removing live animals from slaughter establishments. This rule will not have any adverse effect on slaughter establishments.

### **Disease Indemnities**

This rule clarifies the procedures that DATCP will use to determine the appraised value of animals condemned for disease control purposes, in order to determine the amount of state indemnity payments. This rule will not have any significant adverse effect on livestock operators, and will clarify indemnity procedures.

### **Accommodation for Small Business**

Overall, this rule improves disease control and prevention for the benefit of the entire livestock and aquaculture industry. In many cases, this rule will actually improve flexibility and reduce costs for individual businesses, including small businesses. Overall, this rule has few adverse impacts on small business.

This rule may have some adverse effects on some small businesses (especially bait dealers that harvest emerald shiners from wild sources for sale as bait). If USDA finds that additional fish or bait fish species are susceptible to VHS, this rule may have a more dramatic impact on fish farm operators or bait dealers, or both. Many of the affected entities will be small businesses.

This rule is needed to protect the health of Wisconsin livestock industries, including the aquaculture and farm-raised deer industries. It is also needed to protect the health of wild animals, including fish. Effective disease control is important for all the people of the state, and for the affected livestock industries.

Although this rule may have some adverse effects on some small livestock businesses, those effects are generally minimal and are outweighed by the need to prevent and control the spread of serious diseases that could destroy entire industries. DATCP has not exempted small businesses, because the risk of disease spread is unrelated to business size.

Overall, this rule will benefit Wisconsin livestock industries by improving control of serious diseases.

### *Federal and Surrounding State Programs*

#### **Federal Programs**

DATCP administers animal disease control programs in cooperation with USDA. USDA has well-established control programs for historically important diseases such as tuberculosis and brucellosis. Federal rules for these programs spell out standards for disease testing, disease control, international and interstate movement of animals, certifying the disease status of states, and certifying the disease status of individual herds.

USDA operates national veterinary diagnostic laboratories, and coordinates multi-state responses to major disease epidemics. USDA exercises disease control authority, including quarantine and condemnation authority, and provides funding for indemnity payments to certain owners of condemned animals. USDA operates state and regional offices, and coordinates field operations with states.

USDA has less well-developed programs for new or localized diseases, or emerging animal-based industries. States often take a lead role in developing programs to address new animal health issues and disease threats (farm-raised deer and fish diseases, for example), particularly if those issues or threats have a more local or regional focus.

Wisconsin's program related to fish and farm-raised deer are perhaps the leading programs in the nation, and have provided models for proposed federal programs.

USDA may provide grant funding, regulatory incentives, or other assistance in support of state programs and regulation. For example, USDA provides funding for voluntary Johne's disease testing and herd management, based on federal program standards.

States have independent authority to regulate animal health and movement, including imports from other states. However, states strive for reasonable consistency, based on standards spelled out in federal regulations. Where well-established federal standards and procedures exist, state disease control programs typically incorporate those federal standards. However, states may independently address new and emerging disease issues, especially if those issues have a state or regional focus and are not a priority for USDA.

## **Surrounding State Programs**

### *General*

Surrounding state animal health programs are broadly comparable to those in Wisconsin, but vary in a variety of ways. Differences in disease regulations and control programs may reflect differences in animal populations, animal-based industries, and disease threats in the different states. Programs for historically important diseases, such as tuberculosis and brucellosis, tend to be fairly similar between states and are based on well-established federal standards. Programs for newer forms of agriculture, such as farm-raised deer and aquaculture, tend to be more variable.

### *Aquaculture*

All of the surrounding states regulate aquaculture, to some degree:

- Minnesota requires fish import permits, and licenses fish farms and fish dealers. Health certification is required for fish imports, but not for fish farms. Bait imports are prohibited.
- Iowa requires fish import permits, and licenses fish farms. Health certification is required for fish imports, but not for fish farms.
- Illinois licenses fish farms and fish dealers. An import permit and health certification is required for certain fish imports (salmonids). There is limited regulation of fish transport vehicles.
- Michigan licenses fish farms. Health certification is required for fish imports.

### *Johne's Disease*

All of the surrounding states (Illinois, Michigan, Iowa and Minnesota) have adopted a voluntary Johne's disease testing and herd management program, based on the federal program. Wisconsin has a similar program, which it is updating under this rule.

### *Data and Analytical Methodologies*

USDA specifies standard animal disease test methods and procedures that are incorporated by reference in current DATCP rules.

### *Standards Incorporated by Reference*

Pursuant to s. 227.21, Stats., DATCP has received permission from the attorney general to incorporate the following standards by reference in this rule, without reproducing the standards in full in this rule:

- *Program standards for the national voluntary Johne's disease control program*, United States department of agriculture, animal and plant health inspection service, publication number 91-45-016 (June 2006).

### *DATCP Contact*

Questions and comments related to this rule may be directed to:

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Madison, WI 53708-8911  
Telephone (608) 224-4883  
E-Mail: [hearingcommentsAH@datcp.state.wi.us](mailto:hearingcommentsAH@datcp.state.wi.us)

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- 1           **SECTION 1:** ATCP 10.01(31m) is created to read:
- 2           ATCP 10.01(31m) "DHIA Technician" means a person approved by a service
- 3 affiliate of the dairy herd improvement association to certify dairy farm production
- 4 information.
- 5           **SECTION 2:** ATCP 10.01(39) and (59) are amended to read:

1           ATCP 10.01(39) “Exotic ruminant” means a ruminant not indigenous to  
2   Wisconsin. “Exotic ruminant” does not include domestic bovine animals, bison, cervids,  
3   alpacas or llamas.

4           (59) “Johne’s disease national program standards” means the program standards  
5   for the national voluntary Johne’s disease control program, as published in federal bureau  
6   publication 91-45-016 (~~November 2005~~ June 2006).

7           **SECTION 3.** ATCP 10.01(63m) is created to read:

8           ATCP 10.01(63m) “M-branded” means branded with the letter “M” to signify  
9   imported from Mexico.

10          **SECTION 4.** ATCP 10.01(71)(g)3. is repealed.

11          **SECTION 5.** ATCP 10.04(1)(title) and (a)(intro.) are amended to read:

12          ATCP 10.04(1)(title) ~~VETERINARIAN TO REPORT~~ DUTY TO REPORT TEST RESULTS.

13          (a) A veterinarian, qualified fish health inspector, certified veterinary technician  
14   or DHIA technician who tests an animal in this state for any of the following diseases  
15   shall report the test result to the department, regardless of whether the test result is  
16   positive or negative:

17          **SECTION 6.** ATCP 10.04(1)(a)5. and 6. are created to read:

18          ATCP 10.04(1)(a)5. Chronic wasting disease.

19          6. Viral hemorrhagic septicemia.

20          **SECTION 7.** ATCP 10.07(4)(c) is repealed and recreated to read:

21          ATCP 10.07(4)(c) An operator of a federally approved livestock import market  
22   may not do any of the following:

1           1. Release any animal from that market to a Wisconsin destination unless the  
2 animal meets all applicable import requirements under this chapter.

3           2. Fail to disclose, to the recipient of any animal released from that market, the  
4 animal's state of origin.

5           **SECTION 8.** ATCP 10.08(4) and (5) are amended to read:

6           ATCP 10.08(4) REMOVING LIVESTOCK FROM SLAUGHTER ESTABLISHMENT. No  
7 person may remove any livestock animal from a slaughtering establishment after the  
8 animal has been ~~weighed and purchased by~~ off-loaded at the slaughtering establishment  
9 unless the animal is removed under a special permit issued by the state veterinarian. The  
10 state veterinarian shall grant or deny a permit application within 5 business days after he  
11 or she receives a complete application.

12           (5) RELEASE OF DISEASED WILD ANIMAL. A person who knows or has reason to  
13 know that a captive wild animal has been infected with or exposed to a disease identified  
14 in s. ATCP ~~10.02~~ 10.03 may not release the animal to the wild unless a certified  
15 veterinarian finds that the animal is free of the disease at the time of release. The  
16 veterinarian shall make the finding on a certificate of veterinary inspection that is filed  
17 with the department.

18           **SECTION 9.** ATCP 10.09 is created to read:

19           **ATCP 10.09 Appraised value of condemned animals.** If the owner of an  
20 animal destroyed under s. 95.21(4)(b), 95.23(1m), 95.25, 95.26, 95.27 or 95.31(3) or (4),  
21 Stats., is eligible for a state indemnity for that animal under ch. 95, Stats. If the animal is  
22 of a type not frequently sold at public auction, the department shall appoint a  
23 knowledgeable independent appraiser to determine the appraised value of the animal.

1 The appraiser shall determine the appraised value based on the animal's size, species,  
2 sex, and grade or quality, and by relevant information related to prevailing market prices  
3 for animals of that size, species, sex, and grade or quality. The appraiser may, as  
4 appropriate, conduct market surveys to obtain relevant price information.

5 **SECTION 10.** ATCP 10.11(5)(a)1. is amended to read:

6 ATCP 10.11(5)(a)1. Have the animal identified as a reactor, and shipped to a  
7 slaughtering establishment for slaughter, according to the brucellosis uniform methods  
8 and rules. The ~~operator~~ owner shall obtain a department permit under s. ATCP 10.08 (3)  
9 for the slaughter shipment.

10 **SECTION 11.** ATCP 10.15(1)(d) is created to read:

11 ATCP 10.15(1)(d) A DHIA technician or a certified veterinary technician if the  
12 Johne's disease test sample is a milk sample.

13 **SECTION 12.** ATCP 10.15(6) is amended to read:

14 ATCP 10.15(6) FOLLOW-UP TEST. Within 45 days after an animal tests positive  
15 on a test under sub. (3)(a), ~~the veterinarian who submitted the sample for testing a person~~  
16 authorized under sub. (1) shall collect and submit another sample for testing by a  
17 different test method under sub. (3). The department may, for good cause, extend the  
18 retesting deadline under this subsection.

19 **SECTION 13.** ATCP 10.19(2)(a)3. is created to read:

20 ATCP 10.19(2)(a)3. A livestock premises registration code under s. ATCP 17.02  
21 for the location where the herd is kept.

22 **SECTION 14.** ATCP 10.19(2)(b) and (3)(a) are amended to read:



1           ATCP 10.19(2)(b) Claims for costs incurred in any calendar year shall be  
2 postmarked or delivered to the department on or before February 1 of the following  
3 calendar year, except that the department may consider claims filed after February 1 but  
4 before March 1. A herd owner may file multiple claims for costs incurred in any  
5 calendar year, provided that the claims are not duplicative.

6           (3)(a) The department shall first pay eligible claims, for costs incurred in any  
7 calendar year, which are received or postmarked on or before February 1 of the next  
8 calendar year. If the sum of those eligible claims exceeds the amount available in the  
9 relevant appropriation account, the department may pay those eligible claims pro rata.

10           **SECTION 15.** ATCP 10.22(5)(b)4. is repealed and recreated to read:

11           ATCP 10.22(5)(b)4. An animal originating from an accredited tuberculosis-free  
12 state or nation that accepts bovine animals from this state without a prior tuberculosis  
13 test, unless one of the following applies:

14           a. The state veterinarian requires a tuberculosis test under s. ATCP 10.07(1)(b).

15           b. The state or nation of origin has a confirmed tuberculosis positive herd, in  
16 which case a tuberculosis test is required under par. (a) until that herd is depopulated and  
17 all epidemiologically-linked herds have tested negative for tuberculosis.

18           **SECTION 16.** ATCP 10.22(7m) is created to read:

19           ATCP 10.22(7m) M-BRANDED BOVINES; IMPORT RESTRICTED. No person may  
20 import an M-branded bovine into this state except directly to a slaughter facility.

21           **SECTION 17.** ATCP 10.22(9)(b) is amended to read:

22           ATCP 10.22(9)(b) *Permit application.* To obtain an approved import feedlot  
23 permit, a feedlot operator shall submit an application on a form provided by the

1 department. The application shall identify the location of the feedlot by county, ~~township~~  
2 town and section, and shall include other relevant information required by the  
3 department, including the feedlot's livestock premises code under ch. ATCP 17. The  
4 application shall include a nonrefundable fee of \$75. The department shall grant or deny  
5 a permit application within 30 days after a complete application is filed with the  
6 department.

7 **SECTION 17m.** ATCP 10.22(9)(b), as affected by CR-07-061 effective July 1,  
8 2009, is amended to read:

9 ATCP 10.22(9)(b) *Permit application.* To obtain an approved import feedlot  
10 permit, a feedlot operator shall submit an application on a form provided by the  
11 department. The application shall identify the location of the feedlot by county, ~~township~~  
12 town and section, and shall include other relevant information required by the  
13 department, including the feedlot's livestock premises code under ch. ATCP 17. The  
14 application shall include a nonrefundable fee of \$140. The department shall grant or  
15 deny a permit application within 30 days after a complete application is filed with the  
16 department.

17 **SECTION 18.** ATCP 10.37(1)(a)2. is amended to read:

18 ATCP 10.37(1)(a)2. The department issues a permit under s. ATCP 10.07(2)  
19 authorizing the import shipment, ~~and a copy of the permit.~~ A copy of the permit shall  
20 accompany the shipment.

21 **SECTION 19.** ATCP 10.40(1)(d)1. and (4)(b)1. are amended to read:

22 ATCP 10.40(1)(d)1. They have individually tested negative for pullorum, fowl  
23 typhoid and, in the case of turkeys, *Mycoplasma gallisepticum*, within the preceding 90

1 ~~days and prior to any change of ownership, and there has been no change of ownership of~~  
2 any birds since the completion of testing. Testing for purposes of a fair or livestock  
3 exhibition shall be completed before the birds arrive at the fair or livestock exhibition.

4 (4)(b)1. An individual who draws blood samples for ~~laboratory~~ testing shall  
5 identify each bird with official individual identification, or with another identification  
6 number that uniquely identifies that bird.

7 **SECTION 20.** ATCP 10.40(6)(c) and (d) are amended to read:

8 ATCP 10.40(6)(c) Birds belonging to a flock enrolled under sub. (2), sub. (3) or  
9 s. ATCP 10.41 may not be commingled with any birds that are not part of the flock,  
10 except at shows and exhibitions where all birds have tested negative for pullorum, fowl  
11 typhoid and, in the case of turkeys, Mycoplasma gallisepticum.

12 (d) Birds do not qualify under sub. (1)(d) if they have been commingled with  
13 birds from another flock or source, except at shows and exhibitions where all birds have  
14 tested negative for pullorum, fowl typhoid and, in the case of turkeys, Mycoplasma  
15 gallisepticum.

16 **SECTION 21.** ATCP 10.41(2) and (6) are amended to read:

17 ATCP 10.41(2) ENROLLMENT APPLICATION. A flock owner shall apply for  
18 enrollment under sub. (1) on a form provided by the department. The application shall  
19 include the test results required under sub. (3), ~~and the fee required under sub. (4) (5), and~~  
20 the livestock premises code of the flock premises. The department shall grant or deny an  
21 enrollment application within 30 days after the department receives a complete  
22 application.

1 (6) TESTING. Testing under this section, including test sample collection, shall  
2 comply with applicable requirements in s. ATCP ~~10.40(3)~~ 10.40(4).

3 **SECTION 22.** ATCP 10.42(1)(a) is repealed and recreated to read:

4 ATCP 10.42(1)(a) No live poultry, poultry eggs for hatching, farm-raised game  
5 birds or farm-raised game bird eggs for hatching may be imported to this state unless  
6 accompanied by a valid certificate of veterinary inspection that certifies at least one of the  
7 following:

8 1. They originate from flocks that are enrolled in the national poultry  
9 improvement plan, or a plan that the department determines to be equivalent.

10 2. They originate from flocks that are classified as “U.S. pullorum-typhoid clean”  
11 and, in the case of turkeys and turkey eggs, “Mycoplasma gallisepticum clean” under the  
12 national poultry improvement plan or a plan that the department determines to be  
13 equivalent.

14 3. All individual test-eligible birds have tested negative for pullorum, fowl  
15 typhoid and, in the case of turkeys, Mycoplasma gallisepticum within 90 days prior to  
16 import. Tested birds shall bear official individual identification, and there shall be no  
17 change of ownership between the test sampling date and the import date.

18 **SECTION 23.** ATCP 10.46(title) and (1) are repealed and recreated to read:

19 **ATCP 10.46 Farm-raised deer herds; registration.** (1) REGISTRATION  
20 CERTIFICATE REQUIRED. (a) Except as provided in par. (e), no person may keep farm-  
21 raised deer at any location in this state unless the department has issued a current annual  
22 farm-raised deer herd registration certificate authorizing that person to keep farm-raised

1 deer at that location. A herd registration certificate is not transferable between persons or  
2 locations, except as authorized under s. 95.55(3c)(b), Stats.

3 (b) A herd registration certificate under par. (a) may authorize the registrant to  
4 keep a herd of farm-raised deer at 2 or more locations identified in the registration  
5 certificate, subject to sub. (4).

6 (c) Farm-raised deer from 2 or more herds covered by separate herd registration  
7 certificates may be kept at the same location, subject to sub. (5).

8 (d) A herd registration certificate under par. (a) shall bear one or more livestock  
9 premises codes that, together, cover all of the herd locations identified in the registration  
10 certificate.

11 **NOTE:** A single livestock premises code may cover 2 or more herd locations  
12 (see s. ATCP 17.02(4)(d) and (e)).

13 (e) Paragraph (a) does not apply to the operator of an establishment, licensed  
14 under s. 97.42, Stats., at which that operator keeps live farm-raised deer for not more than  
15 72 hours before slaughtering them.

16 **SECTION 24.** ATCP 10.46(3) is amended to read:

17 ATCP 10.46(3) REGISTRATION CERTIFICATE EXPIRES. A herd registration  
18 certificate under sub. (1) expires on ~~December 31~~ March 15 of each year. The holder of a  
19 herd registration certificate may renew that certificate by submitting an annual renewal  
20 application under sub. (6).

21 **SECTION 25.** ATCP 10.46(4) and (5) are repealed and recreated to read:

22 ATCP 10.46(4) SINGLE REGISTERED HERD KEPT AT 2 OR MORE LOCATIONS. All of  
23 the following conditions apply whenever a herd of farm-raised deer is kept at 2 or more  
24 locations identified in the herd registration certificate under sub. (1):

1 (a) The entire herd, including all herd locations, shall be actively enrolled in the  
2 chronic wasting disease status program under s. ATCP 10.53.

3 (b) The registrant may move farm-raised deer between locations identified in the  
4 herd registration certificate without a certificate of veterinary inspection under s. ATCP  
5 10.56(1) if all of the following apply:

6 1. Those farm-raised deer are identified with official individual identification.

7 2. The registrant keeps a record of the movement. The record shall include the  
8 official individual identification of each farm-raised deer that is moved; the species, age  
9 and sex of the farm-raised deer; the date of movement; and the herd locations from and to  
10 which the farm-raised deer was moved.

11 (c) All farm-raised deer covered by the registration certificate shall be treated as  
12 members of a single herd, for purposes of disease control and movement.

13 **NOTE:** For example, under par. (c), if a certificate of veterinary inspection is  
14 required under s. ATCP 10.56 to ship farm-raised deer from any of the  
15 herd locations covered by a herd registration certificate, the herd health  
16 certifications required under s. ATCP 10.56 must encompass *all* of the  
17 herd locations covered by the herd registration certificate. Likewise, if  
18 disease is found at any of the locations covered by a herd registration  
19 certificate, the department may quarantine and condemn all of the farm-  
20 raised deer at *all* of the locations covered by the registration certificate.

21  
22 (5) SEPARATELY REGISTERED HERDS KEPT AT SAME LOCATION. All of the  
23 following conditions apply whenever any farm-raised deer from 2 or more herds covered  
24 by separate registration certificates under sub. (1) are kept at the same location:

25 (a) If the herds are medically separated under par. (c), each herd is considered a  
26 separate herd for purposes of disease control, movement, and enrollment in the chronic  
27 wasting disease status program under s. ATCP 10.53. Farm-raised deer moved between  
28 any of the medically separated herds shall be accompanied by a certificate of veterinary

1 inspection under s. ATCP 10.56(1), and registrants shall keep a record under sub. (10)(a)  
2 related to each movement.

3 (b) If the herds are not medically separated under par. (c):

4 1. All of the farm-raised deer kept at all of the herd locations identified in all of  
5 the herd registration certificates shall be collectively treated as a single herd for purposes  
6 of disease control and movement, regardless of whether the deer are under common  
7 ownership or control or are part of the same registered herd. This subdivision does not  
8 authorize a violation of sub. (1).

9 **NOTE:** For example, under par. (b)1., if a certificate of veterinary inspection is  
10 required under s. ATCP 10.56 to ship farm-raised deer from *any* of the  
11 herd locations identified in *any* of the herd registration certificates, the  
12 herd health certifications required under s. ATCP 10.56 must encompass  
13 *all* of the farm-raised deer kept at *all* of the herd locations, regardless of  
14 whether those farm-raised deer are owned by the same person or are part  
15 of the same registered herd. Likewise, if disease is found at *any* of the  
16 locations covered by *any* of the herd registration certificates, the  
17 department may quarantine and condemn *all* of the farm-raised deer at *all*  
18 of the locations identified in *all* of the registration certificates.  
19

20 2. Farm-raised deer moved between any of the herd locations identified in any of  
21 the herd registration certificates shall be identified with official individual identification.

22 3. All of the herds, including all herd locations, shall be actively enrolled in the  
23 chronic wasting disease status program under s. ATCP 10.53.

24 (c) Herds are medically separated, for purposes of par. (a), if all of the following  
25 apply:

26 1. Fencing and facilities are adequate to maintain that separation at all times.

27 2. Bio-security procedures, including procedures to prevent the commingling of  
28 farm-raised deer between the herds, effectively prevent disease transmission between the  
29 herds.

1           3. The department finds that the medical separation complies with subds. 1. and  
2 2., based on an inspection under par. (d).

3           (d) Before registering any herd to be kept at the same location as another,  
4 medically separated registered herd, the department shall inspect the location to  
5 determine whether the herds are in fact medically separated. For each inspection under  
6 this subdivision, the registrant shall pay the fee required under sub. (7)(b). No inspection  
7 is required for the renewal of an existing herd registration if the department has  
8 previously inspected the herd premises under this paragraph.

9           **SECTION 26.** ATCP 10.46(6)(c) is amended to read:

10           ATCP 10.46(6)(c) The location or locations at which the farm-raised deer will be  
11 kept, including the county, town, section and fire number assigned to ~~that~~ each location.  
12 The application shall disclose whether farm-raised deer from any other registered herd  
13 will be kept at any of the same locations and, if so, whether the herds will be medically  
14 separated at those locations.

15           **SECTION 27.** ATCP 10.46(6)(em) is created to read:

16           ATCP 10.46(6)(em) A copy of a valid fence certificate issued by the department  
17 of natural resources under s. 90.21, Stats., for each location at which white-tailed deer  
18 will be kept pursuant to the registration certificate.

19           **SECTION 28.** ATCP 10.46(7)(b) and (c), (8), (9)(b) and (11)(c) are amended to  
20 read:

21           ATCP 10.46(7)(b) A person who applies to register a herd at the same location  
22 where another herd is registered shall pay a nonrefundable fee of \$150 for each day  
23 needed to complete an inspection required under sub. ~~(4)(e)~~ (5)(d).



1 (c) An applicant shall pay a registration fee surcharge of \$100 if the department  
2 determines that, within 365 days prior to submitting the registration application, the  
3 applicant kept farm-raised deer at any location without a required registration certificate  
4 that identifies that location. In addition to the surcharge, the applicant shall pay the fee  
5 due for the year in which the applicant failed to obtain the required registration  
6 certificate.

7 (8) ACTION ON REGISTRATION APPLICATION. The department shall grant or deny  
8 an application under sub. (6) within 30 days after the department receives a complete  
9 application, except that the department shall grant or deny the application within 60 days  
10 if the department is required to perform an inspection under sub. ~~(5)(e)~~ (5)(d).

11 (9)(b) Violating ch. 95, Stats., ~~or this chapter, or department of natural resources~~  
12 fencing rules under s. NR 16.45.

13 (11)(c) Move a live farm-raised deer or any portion of a farm-raised deer carcass  
14 from the premises at which it has been kept unless the farm-raised deer has an official  
15 individual identification or the farm-raised deer carcass complies with sub. (13).

16 **SECTION 28m.** ATCP 10.46(7)(b) and (c), as affected by CR-07-061 effective  
17 July 1, 2009, is amended to read:

18 ATCP 10.46(7)(b) A person who applies to register a herd at the same location  
19 where another herd is registered shall pay a nonrefundable fee of \$200 for each day  
20 needed to complete an inspection required under sub. ~~(4)(e)~~ (5)(d).

21 (c) An applicant shall pay a registration fee surcharge of \$250 if the department  
22 determines that, within 365 days prior to submitting the registration application, the  
23 applicant kept farm-raised deer at any location without a required registration certificate

1 that identifies that location. In addition to the surcharge, the applicant shall pay the fee  
2 due for the year in which the applicant failed to obtain the required registration  
3 certificate.

4 **SECTION 29.** ATCP 10.46(12) is repealed and recreated to read:

5 ATCP 10.46(12) ESCAPED FARM-RAISED DEER. (a) A person keeping farm-  
6 raised deer shall report to the department whenever any of those farm-raised deer escapes  
7 to the wild. The person shall report the escape within 24 hours after the person knows or  
8 has reason to know of the escape. The report shall identify the location of the escape, the  
9 apparent date and time of the escape, and the circumstances that resulted in the escape.

10 (b) If an escaped farm-raised deer is returned to the herd, the person shall report  
11 that return to the department within 24 hours after the return occurs. The report shall  
12 include the apparent number of hours that elapsed between the escape and the return.

13 (c) Except as provided in par. (d), if an escaped farm-raised deer is returned to  
14 the herd more than 72 hours after it escapes, it loses any status that it may have had in a  
15 herd certification or herd status program under s. ATCP 10.49, 10.51 or 10.53, and is  
16 treated as a new addition to the herd.

17 (d) If a farm-raised deer escapes into a wild deer disease control area that the  
18 Wisconsin department of natural resources has designated by rule, and is returned to the  
19 herd more than 24 hours after the escape, it loses any status that it may have had in a herd  
20 certification or herd status program under s. ATCP 10.49, 10.51 or 10.53, and is treated  
21 as a new addition to the herd.

22 **SECTION 30.** ATCP 10.46(12)(note) is created to read:

23 **NOTE:** For example, if a farm-raised deer escapes into a chronic wasting disease  
24 management zone established by the department of natural resources

1 under NR 10, and is returned to the herd more than 24 hours after the  
2 escape, it loses any status that it had under the chronic wasting disease  
3 herd status program (ATCP 10.53). It *also* loses any status that it had  
4 under the tuberculosis herd certification program (ATCP 10.49) and the  
5 brucellosis herd certification program (ATCP 10.51).

6 **SECTION 31.** ATCP 10.47(3)(a)(note) is created to read:

7 **NOTE:** A hunting preserve certificate issued under this subsection only  
8 authorizes hunting for farm-raised deer. Hunting of other animals in a  
9 farm-raised deer hunting preserve is illegal. See s. 951.09, Stats.

10 **SECTION 32.** ATCP 10.47(3)(b)5. and 6., (4m) and (4m)(note) are created to  
11 read:

12 ATCP 10.47(3)(b)5. An estimate of the farm-raised deer population on the  
13 hunting preserve premises, by species, age and sex.

14 6. A list showing, for each farm-raised deer on the hunting preserve premises that  
15 bears any attached or implanted identification, each type of identification and each  
16 associated identification number that the farm-raised deer bears.

17 (4m) OFFICIAL INDIVIDUAL IDENTIFICATION. (a) All non-natural additions to a  
18 hunting preserve premises shall have 2 forms of official individual identification, one  
19 visible and one implanted.

20 **NOTE:** See s. ATCP 10.01(71).

21 **SECTION 33.** ATCP 10.47(7)(b)6. is amended to read:

22 ATCP 10.47(7)(b)6. ~~The~~ All official individual identification ~~of attached to or~~  
23 implanted in the carcass, or the and the number of any dead tag number attached to the  
24 carcass under s. ATCP 10.46(13), ~~if the carcass leaves the premises. If the carcass has~~  
25 ~~both an official individual identification and a dead tag, the record shall include both~~  
26 ~~numbers.~~

1           **SECTION 34.** ATCP 10.48(6)(c) is amended to read:

2  
3           ATCP 10.48(6)(c) The department may for good cause extend a deadline under  
4 par. (b), but may not extend a deadline under par. (b)1. by more than ~~15~~ 30 additional  
5 days.

6           **SECTION 35.** ATCP 10.49(4) is created to read:

7           ATCP 10.49(4) **CERTIFICATION TRANSFERRED, OR ISSUED BASED ON SOURCE**  
8 **HERD CERTIFICATION.** The department may not transfer a herd certification under sub. (1)  
9 to another herd or herd registrant, or certify a herd based solely on prior certification of  
10 another herd from which the herd received its farm-raised deer, unless all of the  
11 following apply:

12           (a) The herd registrant applies for the new or transferred certification not later  
13 than 90 days after the registrant first acquires farm-raised deer from the prior certified  
14 herd.

15           (b) The herd meets applicable requirements for certification under sub. (1).

16           **SECTION 36.** ATCP 10.51(1) and (2) are repealed and recreated to read:

17           ATCP 10.51(1) **INITIAL CERTIFICATION.** (a) The department may certify a herd  
18 of farm-raised deer as a certified brucellosis-free herd based on 2 consecutive whole herd  
19 tests that are negative for brucellosis. The whole herd tests shall be conducted 9 to 15  
20 months apart. Each whole herd test shall include all sexually intact farm-raised deer, at  
21 least 6 months old, which are in the herd at the time of the test.

22           (b) The department may certify a herd of farm-raised deer as a brucellosis  
23 monitored herd if the herd qualifies for that certification under the brucellosis uniform  
24 methods and rules.

1 (2) MAINTAINING CERTIFICATION. (a) Except as provided in par. (b) or (c), a  
2 herd certification under sub. (1) expires 36 months after the date on which it is issued.

3 (b) The department may change the expiration date under par. (a) if all of the  
4 following apply:

5 1. The keeper of the farm-raised deer requests the change.

6 2. The new expiration date occurs before the original expiration date.

7 3. All test-eligible farm-raised deer in the herd test negative for brucellosis within  
8 3 months before or after the new expiration date.

9 (c) The department may renew a herd certification under sub. (1) for a 36-month  
10 period beginning immediately after the applicable herd certification expiration date under  
11 par. (a) or (b) if the herd keeper submits proof that all test-eligible farm-raised deer in the  
12 herd have tested negative for brucellosis within 3 months before or after that expiration  
13 date.

14 (d) Test methods and procedures under pars. (b) and (c) shall comply with the  
15 brucellosis uniform methods and rules.

16 (e) Except as provided in pars. (a) to (c), a herd certification under sub. (1) is  
17 contingent upon compliance with the brucellosis uniform methods and rules.

18 SECTION 37. ATCP 10.51(4) is created to read:

19 ATCP 10.51(4) CERTIFICATION TRANSFERRED, OR ISSUED BASED ON SOURCE

20 HERD CERTIFICATION. The department may not transfer a herd certification under sub. (1)  
21 to another herd or herd registrant, or certify a herd based solely on prior certification of  
22 another herd from which the herd received its farm-raised deer, unless all of the  
23 following apply:

1 (a) The herd registrant applies for the new or transferred certification not later  
2 than 90 days after the registrant first acquires farm-raised deer from the prior certified  
3 herd.

4 (b) The herd meets applicable requirements for certification under sub. (1).

5 **SECTION 38.** ATCP 10.52(1)(intro.) is amended to read:

6 ATCP 10.52(1)(intro.) TESTING REQUIRED. A person who keeps farm-raised deer  
7 in this state shall have a chronic wasting disease test performed according to this section  
8 on each of the following farm-raised deer that is at least 16 months old, unless a different  
9 age is required under USDA rules:

10 **SECTION 39.** ATCP 10.52(3)(a) and (3)(c)2. are repealed and recreated to read:

11 ATCP 10.52(3)(a) A chronic wasting disease test under sub. (1) shall be  
12 performed on a tissue sample that complies with all of the following requirements:

13 1. The tissue sample shall be collected by a qualified person under sub. (4).

14 2. The tissue sample shall be collected within 7 calendar days after the farm-  
15 raised deer dies or is killed or slaughtered, or within 7 calendar days after its death is first  
16 discovered.

17 3. Except as provided in par. (b), the tissue sample shall be collected before any  
18 part of the farm-raised deer carcass leaves the premises where the farm-raised deer died,  
19 or was killed or slaughtered.

20 (c)2. Submit the test sample to a laboratory approved under sub. (5) within 10  
21 calendar days.

22 **SECTION 40.** ATCP 10.52(8) is repealed and recreated to read:

1 ATCP 10.52(8) CONDEMNED FARM-RAISED DEER. (a) The department may order  
2 the slaughter or destruction of farm-raised deer, as provided in s. 95.23(1m) or 95.31,  
3 Stats. An order may do all of the following:

- 4 1. Specify a reasonable deadline for the slaughter or destruction.
- 5 2. Direct appropriate disease testing and disposition of the carcasses.
- 6 3. Require the herd owner or custodian to enter into a premises plan agreement  
7 under par. (b), within a reasonable time specified in the order, as a condition to the  
8 payment of indemnities under par. (c). The terms of a premises plan agreement may be  
9 contingent on the outcome of disease testing.

10 (b) A premises plan agreement under par. (a)3. may require the herd owner or  
11 custodian to clean and disinfect the herd premises, limit future cervid movement to and  
12 from the premises, or comply with other requirements that are reasonably designed to  
13 prevent the spread of disease. An agreement may include a restrictive covenant, such as  
14 a fence maintenance requirement, that is binding on subsequent property owners for the  
15 duration of the agreement.

16 (c) The owner of farm-raised deer slaughtered or destroyed pursuant to a  
17 department order under par. (a) may request an indemnity as provided in s. 95.23(1m) or  
18 95.31, Stats. The owner shall file the request with the department, on a form provided by  
19 the department. The request shall include proof of compliance with the department's  
20 order under par. (a).

21 **SECTION 41.** ATCP 10.53(4)(g) and (g)(note) are created  
to read

22 ATCP 10.53(4)(g) Report any escapes from the herd, and any returns of escaped  
23 farm-raised deer to the herd, as required by s. ATCP 10.46(12).

1           **NOTE:** Under s. ATCP 10.46(12), if a farm-raised deer escapes from a herd  
2           enrolled in the chronic wasting disease herd status program, and is  
3           returned to the herd more than 72 hours after the escape, it loses its status  
4           under the program and is treated as a new addition to the herd. That will  
5           adversely affect the program status of the entire herd.

6  
7           A more stringent rule applies if the farm-raised deer escapes into a wild  
8           deer disease control area designated by the Wisconsin department of  
9           natural resources. If that escaped farm-raised deer is returned to the herd  
10          more than 24 hours after the escape, it loses its status under program and  
11          is treated as a new addition to the herd. That will adversely affect the  
12          program status of the whole herd.

13  
14          If an escaped farm-raised deer is *not* returned to the herd, there is no effect  
15          on the program status of the herd, except as provided in sub. (7).

16           **SECTION 42.** ATCP 10.53(5)(f)(intro.) and 1. are amended to read:

17           ATCP 10.53(5)(f)(intro.) The number, species and sex of farm-raised deer that  
18          have escaped, died or left the herd since the last herd census. The report shall indicate,  
19          for each farm-raised deer that has escaped, died or left the herd, all of the following:

20           1. Whether the farm-raised deer escaped, died on the premises, was shipped  
21          directly to a slaughtering establishment for slaughter, or was shipped to a place other than  
22          a slaughtering establishment.

23           **SECTION 43.** ATCP 10.53(5)(f)5., (g) to (i) and (i)(note) are created to read:

24           ATCP 10.53(5)(f)5. If the farm-raised deer escaped, the information required  
25          under par. (g).

26           (g) Information related to every farm-raised deer that has escaped since the last  
27          reported herd census, including:

28           1. The date of the escape, and the date of the escape report required under s.  
29          ATCP 10.46(12).



1           2. If the escaped animal was returned to the herd, the date of the return and the  
2 date of the return report required under s. ATCP 10.46(12).

3           3. The circumstances that resulted in the escape.

4           4. Steps taken to prevent recurring escapes.

5           (h) An explanation and accounting for changes in the overall herd population, or  
6 in any herd population category under pars. (a) to (c), since the last reported herd census.

7           (i) Census verification by a certified veterinarian, if required by the department.

8           **NOTE:** The department may require census verification by a certified  
9           veterinarian if, for example, the federal bureau requires such verification  
10           or the census contains significant discrepancies.

11  
12           **SECTION 44.** ATCP 10.53(7)(a)4. is repealed and recreated to read:

13           ATCP 10.53(7)(a)(4) At least 2 wild deer found or killed within 5 miles of the  
14 farm-raised deer herd have tested positive for chronic wasting disease, and the farm-  
15 raised deer herd is not enclosed by a double protective barrier under s. ATCP 10.58.

16           **SECTION 45.** ATCP 10.53(7)(a)5. and (8)(b) are amended to read:

17           ATCP 10.53(7)(a)5. Fewer than ~~92%~~ 90% of the farm-raised deer that left the  
18 herd by death, escape or slaughter in any ~~2 of the 5 preceding years~~ census year,  
19 including farm-raised deer whose remains were not testable because of deterioration  
20 when found, were tested for chronic wasting disease according to sub. (4)(b).

21           (8)(b) The department may by written notice, without prior notice or hearing,  
22 revoke a herd's enrollment in the herd status program under this section if the herd  
23 keeper fails, within a ~~reasonable time~~ 90 days after the department suspends the herd's  
24 enrollment under sub. (7), to correct conditions for which ~~that~~ the department has

1 suspended the herd's enrollment under sub. (7). A reasonable period of time to correct  
2 conditions under sub. (7)(a)4. is 6 months.

3 **SECTION 46.** ATCP 10.53(9)(d) is created to read:

4 ATCP 10.53(9)(d) The department may reinstate a herd status program  
5 enrollment suspended under sub. (7)(a)5., subject to conditions specified by the  
6 department, if any of the following apply:

7 1. The next annual herd census documents that 95% of the farm-raised deer  
8 which in that census year left the herd by escape, death or slaughter, including farm-  
9 raised deer whose remains were not testable because of deterioration when found, were  
10 tested for chronic wasting disease according to sub. (4)(b)

11 2. Within 60 days after the farm-raised deer keeper receives the suspension  
12 notice, the keeper kills and tests for chronic wasting disease a number of farm-raised deer  
13 that is at least equal to 90% of the number that the keeper failed to test in the census year  
14 in which the keeper failed to meet the testing standard under sub. (7)(a)5. Farm-raised  
15 deer killed and tested under this subdivision shall be at least 16 months old, and shall  
16 have been in the herd for at least 120 days.

17 **NOTE:** For example, if under sub. (7)(a)5. the department suspends a herd's  
18 enrollment in the chronic wasting disease herd status program because the  
19 farm-raised deer keeper tested only 19 of the 30 herd members that died or  
20 were slaughtered during a census year (less than 90%), the department  
21 may reinstate the enrollment if within 60 days the farm-raised deer keeper  
22 kills and tests at least 10 farm-raised deer from the herd. Reinstatement  
23 may also be conditioned on the keeper's agreement to pay a court-ordered  
24 civil forfeiture under s. 95.99(3), Stats., for violation of the testing  
25 requirement under s. ATCP 10.52(1).  
26

27 **SECTION 47.** ATCP 10.55(3)(c) and (d) are repealed.

28 **SECTION 48.** ATCP 10.55(4)(b) is amended to read:

1           ATCP 10.55(4)(b) The farm-raised deer originates from a herd that qualifies as a  
2 tuberculosis qualified herd, based on a whole herd test completed within ~~180~~ 365 days  
3 prior to the import date.

4           **SECTION 49.** ATCP 10.55(4)(c), (4)(d) and (5) are repealed.

5           **SECTION 50.** ATCP 10.56(1)(d) and (note) are created to read:

6           ATCP 10.56(1)(d) A farm-raised deer movement that is treated as a movement  
7 within a single herd for purposes of s. ATCP 10.46(5)(b).

8           **SECTION 51.** ATCP10.56(3)(d)1. is amended to read:

9           ATCP 10.56(3)(d)1. It has tested negative on 2 tuberculosis tests conducted 90 to  
10 270 days apart, and the second test was performed within ~~360~~ 90 days prior to the  
11 movement date.

12           **SECTION 52.** ATCP 10.56(4)(b) is repealed and recreated to read:

13           ATCP 10.56(4)(b) It has been enrolled in the chronic wasting disease herd status  
14 program under s. ATCP 10.53 for at least the past 5 full registration years.

15           **SECTION 53.** ATCP 10.56(4)(c) and (note) are created to read:

16           ATCP 10.56(4)(c) It is adequately separated from any wild deer herd known to  
17 be infected with chronic wasting disease. If 2 or more wild deer found or killed within 5  
18 miles of the farm-raised deer herd have tested positive for chronic wasting disease, the  
19 certificate of veterinary inspection may not certify that the farm-raised deer herd is  
20 adequately separated under this paragraph unless the herd is enclosed by a double  
21 protective barrier under s. ATCP 10.58 that was installed before, or within a reasonable  
22 time after, the farm-raised deer keeper first received notice of the disease finding in the  
23 second wild deer and has been continuously maintained since erected.

1           **NOTE:** The department will notify a farm-raised deer keeper whenever a wild  
2           deer found or killed within 5 miles of the keeper’s farm-raised deer herd  
3           tests positive for chronic wasting disease. Ninety days is generally a  
4           “reasonable time” to install a double protective barrier, for purposes of  
5           par. (c), although winter construction limitations may justify a longer  
6           “reasonable time.”

7           **SECTION 54.** ATCP 10.58 is created to read:

8           **ATCP 10.58 Farm-raised deer; separation from diseased wild deer.** For  
9           purposes of ss. ATCP 10.53(7)(a)(4) and 10.56(4)(c), a double protective barrier means  
10          one of following systems, or a combination of any of the following systems, which fully  
11          encloses a farm-raised deer herd and is approved by the department:

12          (a) A double fence that meets all of the following requirements:

- 13           1. Each fence is at least 8 feet high at every point.  
14           2. The 2 fences are at least 10 feet but not more than 16 feet apart at every point.

15          (b) A solid barrier that is at least 8 feet high at every point.

16          **SECTION 55.** ATCP 10.60(1) is renumbered ATCP 10.60(1m) and amended to read:

17          ATCP 10.60(1m) “Fish farm” means a facility or group of facilities, all located on a  
18          single parcel of land or on 2 or more contiguous parcels, at which a person hatches fish eggs or  
19          holds live fish. “Fish farm” does not include a wild source.

20          **SECTION 56.** ATCP 10.60(1) is created to read:

21          ATCP 10.60(1) “Contiguous parcels” means land parcels that are adjacent or that share a  
22          common boundary. “Contiguous parcels” includes parcels that are separated only by a river,  
23          stream, section line, public road, private road, or railroad or utility right of way.

24          **SECTION 57.** ATCP 10.60(4)(note) is repealed.

25          **SECTION 58.** ATCP 10.61(1)(intro.) and (note, first paragraph) are amended to read:

1 ATCP 10.61(1)(intro.) REGISTRATION CERTIFICATE REQUIRED. Except as provided in  
2 sub. (2), no person may operate a fish farm for any of the following purposes without ~~an~~ a  
3 current annual registration certificate from the department that identifies that fish farm:

4 **NOTE (first paragraph):** A Wisconsin department of natural resources (DNR) stocking  
5 permit is needed to stock fish into the waters of the state. However, a DNR  
6 stocking permit is not needed to stock fish into a fish farm registered under sub.  
7 ~~(2)~~ (1). See s. 29.736, Stats.  
8

9 **SECTION 59.** ATCP 10.61(2)(intro.) is amended to read:

10 ATCP 10.61(2)(intro.) EXEMPTIONS. A person may do any of the following without a  
11 registration certificate under sub. ~~(2)~~ (1):

12 **SECTION 60.** ATCP 10.61(3) is repealed and recreated to read:

13 ATCP 10.61(3) REGISTRATION TYPE. (a) A fish farm registration certificate under sub.  
14 (1) shall specify whether the fish farm is registered as a type 1, type 2 or type 3 fish farm.  
15 Except as provided in par. (g), the registration type may vary from year to year.

16 (b) Except as provided in par. (d), a fish farm operator may not sell or distribute  
17 live fish or fish eggs from that fish farm unless the fish farm is registered as a type 2 or  
18 type 3 fish farm.

19 (c) Except as provided in par. (d), the operator of a fish farm that receives any  
20 fish or fish eggs obtained from a wild source may not sell or distribute any live fish or  
21 fish eggs from that fish farm unless the fish farm is registered as a type 3 fish farm.

22 (d) The operator of a registered fish farm may do any of the following, regardless of  
23 whether that fish farm is registered as a type 1, type 2 or type 3 fish farm:

24 1. Allow public fishing at the fish farm, including public fishing for a fee.

1           2. Ship live fish or fish eggs from the fish farm to a food processing plant, retail  
2 food establishment or restaurant, for processing or direct sale to consumers, provided that  
3 the receiving entity does not do any of the following:

4           a. Hold any of the fish or fish eggs for more than 30 days prior to slaughter or direct sale  
5 to consumers.

6           b. Commingle the fish or fish eggs with fish or fish eggs that may be used for any other  
7 purpose.

8           c. Sell or distribute unprocessed fish or fish eggs to consumers at any place other  
9 than the food processing plant, retail food establishment or restaurant at which the entity  
10 first receives them.

11          d. Discharge to waters of the state any untreated water used to hold or process any of the  
12 fish or fish eggs.

13          e. Dispose of any dead fish, dead fish eggs or fish offal except by rendering, composting,  
14 municipal solid waste disposal, or other means approved by the department.

15          (e) A fish farm operator may, by paying the type 2 registration fee under sub. (7), re-  
16 register a fish farm as a type 2 fish farm during a registration year for which it was originally  
17 registered as a type 1 fish farm. The previous type 1 registration fee payment does not count  
18 toward payment of the type 2 fish farm registration fee.

19          (f) A person may, by paying the type 3 registration fee under sub. (7), re-register a fish  
20 farm as a type 3 fish farm during a registration year for which it was originally registered as a  
21 type 1 or type 2 fish farm. The previous type 2 registration fee payment does not count toward  
22 payment of the type 3 fish farm registration fee.

1 (g) A fish farm operator may not register, as a type 1 or type 2 fish farm, a fish farm that  
2 was previously registered as a type 3 fish farm unless one of the following conditions is met:

3 1. The fish farm operator first removes all fish and fish eggs from the fish farm and  
4 disinfects the fish farm.

5 2. A qualified fish health inspector issues a fish health certificate under s. ATCP 10.65  
6 that covers all of the fish and fish eggs on the fish farm. The fish health certificate shall further  
7 certify that all fish or fish eggs received onto the fish farm from a wild source in the immediately  
8 preceding 12 months were accompanied by a fish health certificate that included all of the  
9 certifications required under s. ATCP 10.65(4)(b).

10 **SECTION 61.** ATCP 10.61(3)(note) is repealed.

11 **SECTION 62.** ATCP 10.61(5) amended to read:

12 ATCP 10.61(5) ~~PERSONS OPERATING~~ REGISTERING 2 OR MORE FISH FARMS. A  
13 ~~person who operates 2 or more fish farms shall obtain a separate annual~~ registration  
14 ~~certificate is required for each fish farm registered under sub. (1) for each fish farm.~~ A  
15 person may obtain annual registration certificates for 2 or more fish farms by filing a  
16 single annual application under sub. (6) and paying a single for each registration  
17 certificate the applicable annual fee under sub. (7). A registration certificate is not  
18 transferable between persons or locations.

19 **SECTION 63.** ATCP 10.61(5)(note) is repealed and recreated to read:

20 **NOTE:** See ss. ATCP 10.60(1) and (1m). A fish farm operator may register, as a single  
21 fish farm, all fish farm facilities that are located on the same land parcel or on  
22 contiguous land parcels. Fish farm facilities located on non-contiguous land  
23 parcels must be registered as separate fish farms. A fish farm operator may  
24 choose to register fish farm facilities as separate fish farms, even though the

26 facilities comply with sub. (5m).