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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

Wisconsin Department of Agriculture, Trade and Consumer Protection

Business Impact Analysis¹

Rule Subject: Animal Diseases and Movement
Adm. Code Reference: ATCP 10, 12 and 17
Rules Clearinghouse #: 07-107
DATCP Docket #: 07-R-01

Rule Summary

This rule modifies Wisconsin animal health and disease control rules. Among other things, this rule:

- Establishes new rules related to viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. DATCP has adopted temporary emergency VHS rules, which this rule would make “permanent.”
- 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, shows and enrollment in the national poultry improvement program.
- Modifies current rules related to animal markets, dealers and truckers. Among other things, this rule:
 - Eliminates current requirements for animal market operators, animal dealers and animal truckers to pass a test in order to obtain a license.
 - Clarifies animal transport vehicle registration requirements.
 - Requires animal market operators, animal dealers and animal truckers to record the livestock premises identification code, if any, of each premises from which the market operator, dealer or trucker receives livestock, or to which the market operator, dealer or trucker delivers livestock.

¹ This analysis includes, but is not limited to, a small business analysis (“regulatory flexibility analysis”) under s. 227.114, Stats.

- Modifies current rules related to Wisconsin's livestock premises registration program. This rule makes it easier to register, and extends the current annual registration period to 3 years.
- Clarifies current disease indemnity appraisal procedures.
- Regulates imports of llamas and alpacas.
- Makes other minor changes to update, clarify and correct current animal health and disease control rules.

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 the Wisconsin Department of Natural Resources (DNR). The effect on DNR is described 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 dealers in 2 ways:

- 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.
- Clarifies that DATCP may suspend a herd’s enrollment in the chronic wasting disease herd status program if the herd owner willfully fails to test any test-eligible animal, or fails for any reason to test at least 90% of test-eligible animals in any census year. The rule specifies conditions under which DATCP may reinstate a suspension.
- 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.)
- Clarifies that a person applying to register a herd of white-tailed deer with DATCP 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.

- Reduces the number of whole herd tests required for brucellosis-free herd certification from 3 to 2 whole herds tests, so that it is consistent with the term of a tuberculosis-free herd certification. That will allow herd owner to conduct simultaneous tests for both certifications.
- 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. 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. Currently there are eight registered farm raised deer facilities that will be immediately affected. In recent years USDA has made money available for double fencing of farm-raised deer herds, individuals affected by this rule change will receive first right of refusal for that funding this year (future funding is uncertain). 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. This rule also makes it 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 registration 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

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.

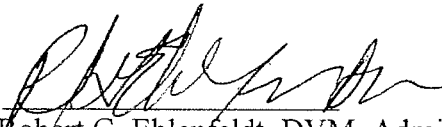
DATCP has not exempted small businesses, because the risk of disease spread is unrelated to business size.

Conclusion

Overall, this rule will benefit Wisconsin livestock industries by improving control of serious diseases. This rule may have some adverse effects on some individual businesses, those effects are generally limited and are outweighed by the need to prevent and control the spread of serious diseases that could destroy entire industries.

Dated this 23 day of July, 2008

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Robert G. Ehlenfeldt, DVM, Administrator,
Division of Animal Health

FISCAL ESTIMATE

DOA-2048 N(R10/98)

 ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Adm. Rule No.

ATCP 10,12, 17

Amendment No. If Applicable

Subject**Animal Health and Disease Control****Fiscal Effect****State:** No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum certain appropriation

 Indeterminate
 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs - May be possible to Absorb Within Agency's Budget Yes No Decrease Costs**Local:** No Local Government Costs
1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts
Fund Sources Affected GPR FED PRO PRS SEG SEG-S**Affected Ch. 20 Appropriations**

20.115 (2)(a) and (2)(ha)

Assumptions Used in Arriving at Fiscal Estimate

This rule modifies current health certification and disease testing requirements for fish and farm-raised deer (see "plain language analysis" accompanying the rule).

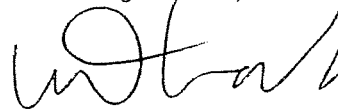
DATCP expects to incur added costs to administer and enforce the fish health testing requirements under this rule. DATCP estimates it will need a minimum of 2 FTE positions to review and process fish health certificates in a timely manner; to train fish health inspectors to conduct VHS sample collection; 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 federal grant funds to cover some of the costs, but federal funding is not guaranteed to continue.

This rule will have a fiscal impact on DNR fish hatchery and stocking operations. Under this rule, all VHS-susceptible fish 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. This rule provides a limited exemption for fish or fish eggs that are reintroduced to the same waters from which they are collected. The exemption will allow DNR and local governments to continue programs (including so-called "walleye wagons") to expand or rehabilitate populations of important sport fish.

Under current rules, a veterinarian or other qualified fish health inspector must issue a fish health certificate for all fish stocked into Wisconsin public waters. The inspector must issue the health certificate on a form prescribed by DATCP. Under this rule, if the fish are of a VHS-susceptible species, and were either (1) collected from a wild source within the preceding 12 months or (2) kept on a type 3 fish farm, the fish health certificate must certify that the fish are VHS-free. The certification must be based on VHS tests conducted according to approved methods (the American Fisheries Society test or the World Organization for Animal Health test) that DATCP identifies on the health certificate form.

Agency/Prepared by: (Name & Phone No.)
Dept of Agriculture, Trade & Consumer Protection

Authorized Signature/Telephone No.


William Walker (608) 224- 4353

Date

7/24/08

Melissa Mace (608) 224-4883

VHS tests must be conducted on a statistically representative test 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 different 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 the purposes for which the fish are kept and distribute.

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 will be approximately \$60,000 per year. DNR may also incur some related administrative costs. However, currently the state hatcheries internal protocol and best management practices include significant testing for VHS, so the net impact 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).

This rule may have a slight fiscal impact on University of Wisconsin research facilities and some local governments, to the extent that they may operate fish farms or procure fish from farms affected by this rule. However, the effect will likely be minimal unless those entities are engaged in distributing VHS-susceptible fish obtained from wild sources in this state.

This rule makes additional changes to other program areas. These changes will not have a fiscal impact on the state.

Long-Range Fiscal Implications

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB No. and Bill/Adm. Rule No.

Amendment No.

A-2047 (R10/98)

ATCP 10, 12, 17

Subject

Animal Health and Disease Control

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:

A. State Costs by Category	Annualized Fiscal Impact on State Funds from:	
	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$100,700	
(FTE Position Changes) FTE	2.00	
State Operations - Other Costs	\$19,600	
Local Assistance		
Aids to Individuals and Organizations		
TOTAL State Costs by Category	\$120,300	
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$120,300	
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes		
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues		

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$120,300	
NET CHANGE IN REVENUES		

Dept. of Agriculture, Trade & Consumer Protection	Authorized Signature/Telephone No.	Date
	<i>William Walker</i> William Walker (608) 224- 4353	7/24/08