

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2708/P3ins
MGG:.....

INS
57-13

SECTION 1. 29.001 (26) of the statutes is amended to read:

29.001 (26) "Fish farm" has the meaning given in s. 95.60 (1) ~~(a)~~ (ai), except that "fish farm" does not include a state or municipal fish hatchery or a private fishing preserve.

History: 1997 a. 248 ss. 39 to 47, 49 to 75, 84; 1999 a. 9

SECTION 2. 95.001 (1) (ah) of the statutes is created to read:

^A
95.001 (1) (ah) "Farm-raised fish" means any fish egg that is present on a fish farm or any fish that is reared on a fish farm.

INS 4
78-A

SECTION 3. 95.12 of the statutes is amended to read:

95.12 False pedigree. No person with intent to defraud shall obtain from any corporation, association, society or company organized for the purpose of improving breeds of domestic animals, a false certificate of registration of any such domestic animal in the herd or other register of any such corporation, association, society or company, or the transfer of any such certificate, or shall, with intent to defraud, give a false pedigree of any such domestic animal.

INS
78-20

SECTION 4. 95.13 of the statutes is amended to read:

95.13 Misrepresenting breed of domestic animal. No person shall sell or barter or cause to be sold or bartered any domestic animal and represent, or cause to be represented that such domestic animal is a pure bred domestic animal, when in fact such domestic animal is not registered, or entitled to registry, in any pure breed registry maintained for such domestic animals; nor shall any person knowingly utter, pass or deliver to any person as true, any false, or altered pedigree; nor shall any person refuse to deliver proper certificate of registry for any domestic animal sold or transferred by the person, having represented at the time of sale or

✓
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INS
78-
20

transfer, and as an inducement thereto, that such domestic animal was registered and that the person possessed and would deliver a certificate of registry as evidence thereof, or that such domestic animal was entitled to registry and that the person would secure such certificate and deliver the same.



History: 1993 a. 492.

SECTION 5. 95.17 of the statutes is amended to read:

95.17 Animal diseases; cooperation with United States. Whenever it is determined by the department and the state constitutional officers that it is necessary to combat dangerous diseases among domestic in animals in this state in cooperation with the U.S. department of agriculture and to destroy animals affected with or which have been exposed to any such disease or to destroy property in the disinfection of the premises or to do any other act or incur any other expense reasonably necessary in suppressing or combating such disease, the department may accept, on behalf of the state, the rules and regulations prepared by the U.S. department of agriculture under authority of an act of congress relating to the suppression of any such disease and cooperate with the authorities of the U.S. in the enforcement of their provisions; or it may follow such procedure as to inspection, vaccination, condemnation, appraisal, disinfection and other acts reasonably necessary in the suppression of such diseases as may be agreed upon and adopted by the department and the state constitutional officers with the representatives of the U.S. department of agriculture. Within the amount which may, subsequent to March 23, 1915, be appropriated for this purpose, the state shall pay such proportion of the expense incurred in suppressing or combating any such disease and in



compensating owners of animals slaughtered under this section as shall be determined by and mutually agreed upon with the U.S. department of agriculture.

INS
78-20
(END)

History: 1975 c. 308.

SECTION 6. 95.24 (3) (a) (intro.) of the statutes is amended to read:

95.24 (3) (a) (intro.) No type of living vaccine for immunizing against anthrax or swine erysipelas may be administered to any domestic animal, ~~including fowl~~, or sold or dispensed in this state without first having obtained the written approval of the chief veterinarian of the department. Approval to administer such vaccine shall be granted to licensed veterinarians only, and then only to qualify the domestic animal ~~or fowl~~ for export or in the event that any of the following has been established:

INS
79-18

History: 1993 a. 213, 492.

SECTION 7. 95.24 (3) (a) 1. of the statutes is amended to read:

95.24 (3) (a) 1. The domestic animals to be so treated are infected.

History: 1993 a. 213, 492.

SECTION 8. 95.24 (3) (a) 2. of the statutes is amended to read:

95.24 (3) (a) 2. The domestic animals to be so treated are on premises known to be contaminated.

History: 1993 a. 213, 492.

SECTION 9. 95.24 (3) (a) 3. of the statutes is amended to read:

95.24 (3) (a) 3. The domestic animals to be so treated have been exposed within 40 days to infection with the disease for which the living vaccine is prescribed as a proper immunizing agent.

✓

History: 1993 a. 213, 492.

SECTION 10. 95.55 (1) (b) of the statutes is renumbered 95.55 (1) (b) 1.

SECTION 11. 95.55 (1) (b) 2. of the statutes is created to read:

INS
83-10

LPS:
Check
Component

↓

INS
83-10

95.55 (1) (b) 2. The department may promulgate rules to exempt groups of persons or species of farm-raised deer from the registration requirement under this section. (ENO)

SECTION 12. 95.60 (1) (intro.) and (b) of the statutes are consolidated, renumbered 95.60 (1) and amended to read:

INS
84-19

95.60 (1) In this section: (b) ~~Waters~~, "waters of the state" has the meaning given in s. 281.01 (18).

Strike thru space

History: 1997 a. 27, 237; 1999 a. 32.

SECTION 13. 95.60 (1) (a) of the statutes is renumbered 95.001 (1) (ai).

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2708/P3dn

MGG:.....

cjs

I prepared

Sarah Hurley

to put in

This preliminary version ~~contains~~ all of the additional changes to ch. 95. Becky Tradewell will again be reviewing the provisions in chs. 93 and 95, and based on that review, further changes may need to be made.

Regarding s. 95.31 (4), I have taken a second look at this since Ruth Heike and I exchanged e-mails. I think that this subsection should cover all animals and not just domestic animals to make it consistent with the the rest of s. 95.31 and with s. 95.36. If you or Ruth disagree, please call me.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

to discuss this

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2708/P3dn
MGG:ejs:pg

April 20, 2001

Sarah Hurley:

I prepared this preliminary version to put in all of the additional changes to ch. 95. Becky Tradewell will again be reviewing the provisions in chs. 93 and 95, and, based on that review, further changes may need to be made.

Regarding s. 95.31 (4), I have taken a second look at this since Ruth Heike and I exchanged e-mails. I think that this subsection should cover all animals and not just domestic animals to make it consistent with the the rest of s. 95.31 and with s. 95.36. If you or Ruth disagree, please call me to discuss this.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

22.38 Access to Records. (1) DEPARTMENTAL AUTHORITY. For purposes of enforcing this chapter, chapter 29, s. 90.21 or the rules promulgated under those chapters or sections with respect to a person who is required to be registered or maintain records under chapter 95 for wild animals or farm raised deer that are white-tailed deer or captive game birds, a conservation warden or representative of the department, upon presenting his or her credentials to that person, may do any of the following:

(a) Enter and inspect any land, vehicle, ^{caged} building, or other structure where live wild animals or farm raised deer that are white-tailed deer or captive game birds are possessed or where carcasses of those animals are possessed.

(b) Inspect any equipment, materials, or other activities related to the wild animals or farm raised deer that are white-tailed deer or captive game birds.

(c) Gain access to and inspect any records required to be kept under chapter 95 or rules promulgated under that chapter for wild animals or farm raised deer that are white-tailed deer or captive game birds.

(2) TIMES FOR INSPECTIONS. An inspection authorized under sub. (1) may be conducted during any of the following times:

(a) Normal business hours.

(b) During the time that the person who possesses the animals or carcasses of the animals is conducting business.

(c) At any time, if the inspection is necessary for public health, safety, or welfare.

(3) PROHIBITING INSPECTIONS. No person required to be registered under chapter 95 or an operator of a vehicle for such a person, or employee or person acting on behalf of such a person, may prohibit entry as authorized under this section unless a court restrains or enjoins the entry or inspection.

✓ puts stuff → out back to 1P3

✓ p. 10 - domestic animal - only
f/r deer,
pet bird
f/r game bird
done by rule

✓ p. 82 - lines 22 + 23 (3) out ??
#

✓ p. 93 - white-tailed deer only
in ch. 22
only for violations of 22.29~~?~~ and 29
fence inspections

DATCP - ~~move to~~ 22.015 → in DATCP

appropriation for NP1P

def. of veterinarian

(b) - other state CFR, reference

ⓓ-Note can we move it to ch. 22
current law ^{95.45 (1)} means those accredited
by CFR

1 (c) No person may apply for registration under s. 95.55 in order to keep
2 farm-raised deer that are white-tailed deer without being first issued a fence
3 inspection certificate under this section.

4 (3) FEES. ^{and effective periods} (a) The ~~annual~~ ^{fee} for an fence inspection certificate is ~~\$25~~ ^{\$50} for a fenced
5 area that is less than ~~40~~ ⁸⁰ acres in size, ~~\$50~~ for an fenced area that is ~~40~~ ⁸⁰ acres or greater
6 in size but less than ~~200~~ ⁸⁰ acres in size and \$100 for a fenced area that is ~~200~~ ⁸⁰ or more
7 acres in size. *The fence Certificate will be valid from the date of*
issuance until December 31st the 5th December 31st following the date of issuance

8 (b) A person shall apply for a new fence inspection certificate and pay the
9 applicable fee if the person is expanding the area to be fenced, *the fee shall be*
based on the expanded area.

10 (4) NEW OPERATIONS; DRIVING OUT OF WILD DEER. A person who is starting an
11 operation to keep farm-raised deer and who is applying for a fence inspection
12 certificate under this section shall make a reasonable effort to drive any wild
13 white-tailed deer from the area to be fenced before the area is completely closed. No
14 person may place any baiting material in attempt to attract white-tailed deer to
15 remain in the fenced area. If the department issues a certificate under this section,
16 the department shall determine whether any white-tailed deer remaining in the
17 area after the area is completely closed will be killed or will be sold to the holder of
18 the certificate. If the white-tailed deer are to be killed, the department will
19 determine how the deer will be killed. If the white-tailed deer are to be sold, the
20 holder of the certificate shall pay the department the fair market value for each deer.

21 (5) EXISTING OPERATIONS. A person who holds a license under s. 29.871, 1999
22 stats., on the effective date of this subsection [revisor inserts date], may continue
23 to keep white-tailed deer ^{and will automatically receive a} ~~without holding a~~ fence inspection certificate ^{with out a fee} issued under
24 this section during the period beginning on the effective date of this subsection

MEMORANDUM

DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER
PROTECTION
OFFICE OF LEGAL COUNSEL

DATE: April 25, 2001
TO: Sarah Shapiro-Hurley
FROM: Ruth Heike
SUBJECT: Captive Wildlife Preliminary Draft 3

After reviewing the third preliminary draft of the captive wildlife bill, I still have many concerns.

1. Regarding the requests made in the March 21, 2001 memo to Mary Gibson-Glass and Sarah Shapiro-Hurley. There was no response to items numbered 1, 2, 5, 8, 11 or 21. In addition, where we requested recognition of the deer farmer's right to "harvest" deer, the draft refers to hunt or "kill" deer. This relates to request 14 and 16 of the memo. Request 22 was not completely responded to, this draft does contain a definition of "captive game birds" but does not respond to the remaining requests in paragraph 22.
2. Page 16 lines 22 - 25 prohibits selling wild animals. There needs to be an exemption for persons licensed under ss. 95.68 and 95.69.
3. Page 17 lines 3 - 8 prohibits buying wild animals. There needs to be an exemption for persons licensed under ss. 95.68 and 95.69.
- ✓ 4. Page 58 lines 5 - 6 should also exempt farm-raised fish.
5. Page 58 lines 8 - 15 should have an exemption for farm-raised deer and farm-raised fish.
- ✓ 6. Page 89 line 7 the word "a" before livestock market should not be deleted.
- ✓ 7. Page 94 line 23 the word "a" before livestock should be deleted.
8. Clarification regarding requested requirement for registration of keepers of "captive game birds." DATCP requests a requirement that keepers of "captive game birds" register with DATCP if they are going to do either of the following:
 - a. sell chicks or eggs for hatching —

Ignore

~~Ignore~~

b. release birds into the wild. —

DATCP would like authority to set registration fee by rule, and authority to establish disease control requirements, including import requirements, for those persons required to register. Since DNR requires that birds that will be released into the wild originate from a NPIP flock, we will need authority to require record keeping and the ability to determine whether the keeper is in compliance with NPIP.

29.853(3)(b)

(b) **Record**. A person who sells any live game animal or fur-bearing animal shall keep a **record** of each sale, the name and address of the purchaser, the type of authorization or license held by the purchaser and its number, if any, the date of sale and a description of the animal. The **record** shall be kept for 2 years after the sale and shall be open to inspection by the department.

29.855(3)(c)

(c) **Record**. A person who sells any live skunk shall keep a **record** of the sale as required under s. **29.853** (3) (b).

29.865(4)(b)

(b) Each licensee shall keep a **record** of birds as required by the department. The licensed premises and **records** may be inspected by the department at any time and shall be furnished to the department on request.

29.867(8)

(8) Each licensee shall keep **records** as required by the department. The licensed premises and **records** may be inspected by the department at any time and copies of the **records** shall be furnished to the department on request.

29.869(9)

(9) Each licensee shall keep **records** as required by the department. The licensed premises and **records** may be inspected by the department at any time and copies of the **records** shall be furnished to the department on request.

29.871(13)

(13) The department may inspect deer farms or the **records** of deer farms at any time.

29.871(14)(b)4.

4. The permittee shall **record** immediately upon possession all additional venison, purchased, possessed or served under the permit in the space provided on the permit.

29.871(14)(b)5.

5. The permittee agrees that the department may inspect the premises where venison is retained or served and that the venison will be inspected under s. 97.42.

29.961(2)

(2) Any person who fails to keep **records** as required under this chapter, fails to keep accurate **records** under this chapter, or provides incorrect information to the department under this chapter, other than information to obtain an approval as provided under sub. (1), shall forfeit not more than \$100.

93.01(10)

(10) "Pests" include any living stage of insects, mites, nematodes, slugs, snails or other

invertebrate animals injurious to plants, plant products, animals and humans; any bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, mycoplasma, protozoans or infectious substances which cause disease in or damage to plants or plant products; any host upon which a plant pest is dependent for the completion of all or a portion of its life cycle; and any other living organism classified as a pest under s. 94.69 (1) (a).

93.07(12)

(12) Plant pests. To conduct surveys and inspections for the detection and control of injurious pests, make, modify and enforce reasonable rules needed to prevent the dissemination of pests, and suggest methods of control.

93.07(13)

(13) Inspection of apiaries. To inspect apiaries, furnish information to owners and caretakers with respect to the eradication and prevention of diseases and pest infestations injurious to honeybees.

93.07(15)

(15) Cooperation. To cooperate with and provide technical assistance to the several counties, towns, villages and cities in the expenditure of funds raised by the said counties, towns, villages and cities for the control of plant pests or animal diseases.

93.07(19)

(19) Pest control compact. To cooperate with the insurance fund established by the pest control compact ratified and enacted by chapter 583, laws of 1965. The secretary shall be the compact administrator for this state.

94.01(1)

(1) In the conduct of survey and inspectional programs for the detection, prevention and control of pests, the department may impose quarantines or such other restrictions on the importation into or movement of plants or other material within this state as necessary to prevent or control the dissemination or spread of injurious pests.

94.01(2)

(2) In accordance with sub. (1), the department, by summary order, may prohibit the removal of any plant, host plant, or other pest-harboring material from any private or public property, or any area of the state which in its judgment contains or is exposed to injurious pests, except under such conditions as in its judgment are necessary to prevent the dissemination or spread of pests, giving written notice thereof to the owner or person in charge of the property. While such order is in effect no person with knowledge thereof shall cause or permit the removal of any such plant, host plant or other pest-harboring material from such property or area, unless it is in compliance with the conditions of such order. Orders issued under this subsection shall be in writing, have the force and effect of an order issued under s. 93.18, and are subject to right of hearing before the department, if requested within 10 days after date of service. Any party affected by the order may request a preliminary or informal hearing pending the scheduling and conduct of a full

hearing.

94.01(3)

(3) No person may obstruct or interfere with the examination or testing, by authorized inspectors and agents of the department, of any plants or other material suspected of being infested or infected with any injurious pests; nor may any person move any plants, plant parts, pests or pest-harboring materials contrary to the terms of any quarantine, rule, notice or order under this section.

94.01(4)

(4) The department, through its authorized agents or inspectors, may enter at all reasonable times any property for purposes of inspection, investigation and control of suspected pest infestations or infections and may intercept, stop and detain for official inspection any person, truck, vessel, aircraft or other conveyance believed to be carrying plants or other materials infested or infected with pests, and may seize and destroy any such plants or other materials moved, shipped or transported in violation of any law, rule, quarantine notice or order.

94.02

94.02 Abatement of pests.

94.02(1)

(1) If the department finds any premises, or any plants, plant parts, or pest-harboring materials located thereon are so infested or infected with injurious pests as to constitute a hazard to plant or animal life in the state, or any area thereof, it may notify the owner or person having charge of such premises to that effect, and the owner or person in charge shall, within 10 days after such notice, cause the treatment of the premises or the treatment or removal and destruction of infested or infected plants, host plants or other pest-harboring material as directed in the notice. No person may violate the terms of any notice received under this subsection, nor may any damages be awarded to the owner for such treatment, removal or destruction. Any person affected by a notice or order may appeal to the department and request a hearing under s. 94.01 (2).

94.02(3)

(3) If a serious pest outbreak constituting a significant threat to agricultural production or plant life occurs, and cannot be adequately controlled by individual property owners or local units of government in any area of this state, the department may petition the joint committee on finance for emergency funds with which to conduct needed control work independently or on a cooperative basis with the federal or local units of government.

94.02(4)

(4) This section pertains to the abatement of pests on agricultural lands and on agricultural business premises. This section does not affect the authority of the department of natural resources under ch. 26.

94.03(1)

(1) No person may sell or offer for sale, or move, transport, deliver, ship or offer for shipment, any pest, as defined in s. 93.01 (10) or any biological control agent as defined in sub. (2), without a permit as prescribed by rules of the department. Such rules may provide for reasonable exemptions from permit requirements. Permits may be issued only after the department determines that the proposed shipment or use will not create sufficient hazard to warrant refusal of a permit. Permits shall be affixed to the outside of every shipping container or accompany the shipment as the department directs.

94.03(2)

(2) The department may by rule regulate and control the sale and use of biological control agents to assure their safety and effectiveness in the control of injurious pests and to prevent the introduction or use of biological control agents which may be injurious to persons or property or useful plant or animal life. The term "biological control agent" as used in this section means any living organism which because of its parasitic, predatory or other biological characteristics may be effective for use in the suppression or control of pests by biological rather than chemical means.

94.10(6)(b)

(b) *Reasonable examinations.* Nursery growers and nursery dealers shall make reasonable examinations of nursery stock held for sale to determine whether that nursery stock is capable of reasonable growth, is infested with injurious pests or is infected with disease.

94.10(7)(a)

(a) (intro.) *Nursery dealers.* No nursery dealer may do any of the following:

94.10(7)(b)1.

1. Sell, offer to sell or distribute any nursery stock that the nursery grower or nursery dealer knows, or has reason to know, is infested with plant pests or infected with plant diseases that may be spread by the sale or distribution of that nursery stock.

94.10(9)(a)3.

3. Refrain from importing weeds or pests that threaten agricultural production or the environment in this state.

94.38(20)

(20) "Treated seed" means seed which has received an application of a substance, or has been subjected to a process in such a way as to reduce, control or repel certain disease organisms, insects or other pests attacking seeds or seedlings growing therefrom.

94.67(1)(a)

(a) Prevent, destroy, repel or mitigate pests;

94.67(24)

(24) "Pest" means any insect, rodent, nematode, fungus, weed or any other form of terrestrial or

aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living persons or other living animals, declared to be a pest under the federal act or rules of the department.

94.69(1)(a)

(a) To declare as a pest any form of plant or animal life or virus which is injurious to plants, persons, animals or substances.

94.76

94.76 Honeybee disease and pest control.

94.76(1)

(1) The department shall maintain surveillance of the beekeeping industry for the detection and prevention of honeybee diseases and pests, and may promulgate or issue such rules or orders or adopt such control measures which in its judgment may be necessary to prevent, suppress or control the introduction, spread or dissemination of honeybee diseases and pests in this state.

94.76(2)

(2) In the execution of its functions under this section, the department and its authorized agents shall have free access at all reasonable times to all apiaries, buildings, structures, rooms, vehicles or places where honeybees, beehives, beekeeping equipment or appliances, or honeybee products may be kept or stored, or in which they may be transported, and may open any package or container believed to contain honeybees, honeycombs, honeybee products, beekeeping equipment or appliances or any other materials capable of transmitting honeybee diseases or harboring pests, and obtain inspectional samples from such products or materials for further testing, examination or analysis.

94.76(3)

(3) Honeybees shall be kept in movable frame hives. No person shall knowingly store, hold or expose honeybee products, beehives or any other beekeeping equipment or appliances in a manner which may contribute to the spread or dissemination of honeybee diseases or pests.

94.76(4)

(4) No person may bring or cause to be brought into this state any honeybee, beehive, drawn comb or used beekeeping equipment or appliances without reporting the shipment to the department. Reports shall be made on forms furnished by the department which shall include the name and address of the consignor, name and address of the consignee, date and manner of shipment, and any further information that the department requires. All reports shall be accompanied by a certificate from an official inspector certifying that the materials have been inspected as required by the department by rule and are apparently free from honeybee diseases or pests.

93.01(10)

(10) "**Pests**" include any living stage of insects, mites, nematodes, slugs, snails or other invertebrate animals injurious to plants, plant products, animals and humans; any bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, mycoplasma, protozoans or infectious substances which cause disease in or damage to plants or plant products; any host upon which a plant **pest** is dependent for the completion of all or a portion of its life cycle; and any other living organism classified as a **pest** under s. **94.69** (1) (a).

93.07(12)

(12) **Plant pests**. To conduct surveys and inspections for the detection and control of injurious **pests**, make, modify and enforce reasonable rules needed to prevent the dissemination of **pests**, and suggest methods of control.

93.07(13)

(13) **Inspection of apiaries**. To inspect apiaries, furnish information to owners and caretakers with respect to the eradication and prevention of diseases and **pest** infestations injurious to honeybees.

93.07(15)

(15) **Cooperation**. To cooperate with and provide technical assistance to the several counties, towns, villages and cities in the expenditure of funds raised by the said counties, towns, villages and cities for the control of plant **pests** or animal diseases.

93.07(19)

(19) **Pest control compact**. To cooperate with the insurance fund established by the **pest** control compact ratified and enacted by chapter 583, laws of 1965. The secretary shall be the compact administrator for this state.

94.01(1)

(1) In the conduct of survey and inspectional programs for the detection, prevention and control of **pests**, the department may impose quarantines or such other restrictions on the importation into or movement of plants or other material within this state as necessary to prevent or control the dissemination or spread of injurious **pests**.

94.01(2)

(2) In accordance with sub. (1), the department, by summary order, may prohibit the removal of any plant, host plant, or other **pest**-harboring material from any private or public property, or any area of the state which in its judgment contains or is exposed to injurious **pests**, except under such conditions as in its judgment are necessary to prevent the dissemination or spread of **pests**, giving written notice thereof to the owner or person in charge of the property. While such order is in effect no person with knowledge thereof shall cause or permit the removal of any such plant, host plant or other **pest**-harboring material from such property or area, unless it is in compliance with the conditions of such order. Orders issued under this subsection shall be in writing, have the force and effect of an order issued under s. **93.18**, and are subject to right of hearing before

the department, if requested within 10 days after date of service. Any party affected by the order may request a preliminary or informal hearing pending the scheduling and conduct of a full hearing.

94.01(3)

(3) No person may obstruct or interfere with the examination or testing, by authorized inspectors and agents of the department, of any plants or other material suspected of being infested or infected with any injurious **pests**; nor may any person move any plants, plant parts, **pests** or **pest**-harboring materials contrary to the terms of any quarantine, rule, notice or order under this section.

94.01(4)

(4) The department, through its authorized agents or inspectors, may enter at all reasonable times any property for purposes of inspection, investigation and control of suspected **pest** infestations or infections and may intercept, stop and detain for official inspection any person, truck, vessel, aircraft or other conveyance believed to be carrying plants or other materials infested or infected with **pests**, and may seize and destroy any such plants or other materials moved, shipped or transported in violation of any law, rule, quarantine notice or order.

94.02

94.02 Abatement of pests.

94.02(1)

(1) If the department finds any premises, or any plants, plant parts, or **pest**-harboring materials located thereon are so infested or infected with injurious **pests** as to constitute a hazard to plant or animal life in the state, or any area thereof, it may notify the owner or person having charge of such premises to that effect, and the owner or person in charge shall, within 10 days after such notice, cause the treatment of the premises or the treatment or removal and destruction of infested or infected plants, host plants or other **pest**-harboring material as directed in the notice. No person may violate the terms of any notice received under this subsection, nor may any damages be awarded to the owner for such treatment, removal or destruction. Any person affected by a notice or order may appeal to the department and request a hearing under s. **94.01** (2).

94.02(3)

(3) If a serious **pest** outbreak constituting a significant threat to agricultural production or plant life occurs, and cannot be adequately controlled by individual property owners or local units of government in any area of this state, the department may petition the joint committee on finance for emergency funds with which to conduct needed control work independently or on a cooperative basis with the federal or local units of government.

94.02(4)

(4) This section pertains to the abatement of **pests** on agricultural lands and on agricultural business premises. This section does not affect the authority of the department of natural resources under ch. 26.

94.03(1)

(1) No person may sell or offer for sale, or move, transport, deliver, ship or offer for shipment, any **pest**, as defined in s. **93.01** (10) or any biological control agent as defined in sub. (2), without a permit as prescribed by rules of the department. Such rules may provide for reasonable exemptions from permit requirements. Permits may be issued only after the department determines that the proposed shipment or use will not create sufficient hazard to warrant refusal of a permit. Permits shall be affixed to the outside of every shipping container or accompany the shipment as the department directs.

94.03(2)

(2) The department may by rule regulate and control the sale and use of biological control agents to assure their safety and effectiveness in the control of injurious **pests** and to prevent the introduction or use of biological control agents which may be injurious to persons or property or useful plant or animal life. The term "biological control agent" as used in this section means any living organism which because of its parasitic, predatory or other biological characteristics may be effective for use in the suppression or control of **pests** by biological rather than chemical means.

94.10(6)(b)

(b) *Reasonable examinations.* Nursery growers and nursery dealers shall make reasonable examinations of nursery stock held for sale to determine whether that nursery stock is capable of reasonable growth, is infested with injurious **pests** or is infected with disease.

94.10(7)(a)

(a) (intro.) *Nursery dealers.* No nursery dealer may do any of the following:

94.10(7)(b)1.

1. Sell, offer to sell or distribute any nursery stock that the nursery grower or nursery dealer knows, or has reason to know, is infested with plant **pests** or infected with plant diseases that may be spread by the sale or distribution of that nursery stock.

94.10(9)(a)3.

3. Refrain from importing weeds or **pests** that threaten agricultural production or the environment in this state.

94.38(20)

(20) "Treated seed" means seed which has received an application of a substance, or has been subjected to a process in such a way as to reduce, control or repel certain disease organisms, insects or other **pests** attacking seeds or seedlings growing therefrom.

94.67(1)(a)

(a) Prevent, destroy, repel or mitigate **pests**;

94.67(24)

(24) "**Pest**" means any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living persons or other living animals, declared to be a **pest** under the federal act or rules of the department.

94.69(1)(a)

(a) To declare as a **pest** any form of plant or animal life or virus which is injurious to plants, persons, animals or substances.

94.76

94.76 Honeybee disease and pest control.

94.76(1)

(1) The department shall maintain surveillance of the beekeeping industry for the detection and prevention of honeybee diseases and **pests**, and may promulgate or issue such rules or orders or adopt such control measures which in its judgment may be necessary to prevent, suppress or control the introduction, spread or dissemination of honeybee diseases and **pests** in this state.

94.76(2)

(2) In the execution of its functions under this section, the department and its authorized agents shall have free access at all reasonable times to all apiaries, buildings, structures, rooms, vehicles or places where honeybees, beehives, beekeeping equipment or appliances, or honeybee products may be kept or stored, or in which they may be transported, and may open any package or container believed to contain honeybees, honeycombs, honeybee products, beekeeping equipment or appliances or any other materials capable of transmitting honeybee diseases or harboring **pests**, and obtain inspectional samples from such products or materials for further testing, examination or analysis.

94.76(3)

(3) Honeybees shall be kept in movable frame hives. No person shall knowingly store, hold or expose honeybee products, beehives or any other beekeeping equipment or appliances in a manner which may contribute to the spread or dissemination of honeybee diseases or **pests**.

94.76(4)

(4) No person may bring or cause to be brought into this state any honeybee, beehive, drawn comb or used beekeeping equipment or appliances without reporting the shipment to the department. Reports shall be made on forms furnished by the department which shall include the name and address of the consignor, name and address of the consignee, date and manner of shipment, and any further information that the department requires. All reports shall be accompanied by a certificate from an official inspector certifying that the materials have been inspected as required by the department by rule and are apparently free from honeybee diseases or **pests**.

CHAPTER ATCP 10

ANIMAL DISEASES

SUBCHAPTER I — DEFINITIONS

ATCP 10.01 

ATCP 10.01 Definitions. As used in this chapter:

ATCP 10.01(2) 

(2) "**Accredited veterinarian**" **means** a **veterinarian** who is both of the following:

ATCP 10.01(2)(a) 

(a) Licensed to practice veterinary medicine.

ATCP 10.01(2)(b) 

(b) Specifically authorized by the federal bureau and responsible state agency, pursuant to 9 CFR 160 to 162, to perform animal disease eradication and control functions under state and federal animal health laws.

ATCP 10.01 - ANNOT. 

Note: Under s. ATCP 10.05, a veterinarian who seeks to perform disease control and eradication functions in Wisconsin must be accredited by the federal bureau and certified by the department.

ATCP 10.01(23) 

(23) "Federal bureau" means the animal and plant health inspection service of the United States department of agriculture, or any other unit of that department which may be vested with authority to administer federal laws and regulations relating to animal disease control.

ATCP 10.01(74) 

(74) "Wisconsin certified **veterinarian**" **means** a **veterinarian** certified under s. ATCP 10.05.

ATCP 10.05 

ATCP 10.05 Wisconsin certified veterinarians.

ATCP 10.05(1) 

(1) **AUTOMATIC CERTIFICATION.** A veterinarian is automatically certified as a Wisconsin certified veterinarian, without any action by the department, if all the following apply:

ATCP 10.05(1)(a) 

(a) The veterinarian is currently licensed under ch. 453, Stats., to practice veterinary medicine in

this state.

ATCP 10.05(1)(b)

(b) The veterinarian is currently accredited by the federal bureau under 9 CFR 160 to 162.



ATCP 10.21

ATCP 10.21 Johne's disease herd classification; disclosure.

ATCP 10.21(1)

(1) DEFINITIONS. In this section:



ATCP 10.21(1)(br)

(br) "Certified veterinarian" means a Wisconsin certified veterinarian except that, for actions taken under this section outside this state, "certified veterinarian" means an accredited veterinarian.



ATCP 10.63

ATCP 10.63 Johne's disease in goats; herd classification; disclosure.

ATCP 10.63(1)

(1) DEFINITIONS. In this section:



ATCP 10.63(1)(br)

(br) "Certified veterinarian" means a Wisconsin certified veterinarian except that, for actions taken under this section outside this state, "certified veterinarian" means an accredited veterinarian.



ATCP 10.68(1)(am)

(am) "Certified veterinarian" means a Wisconsin certified veterinarian whom the department has trained to perform fish disease control and eradication functions except that, for actions taken under this section outside this state, "certified veterinarian" means an accredited veterinarian.



CHAPTER ATCP 11

1

ANIMAL MOVEMENT

SUBCHAPTER I — DEFINITIONS

ATCP 11.01

ATCP 11.01 Definitions. As used in this chapter:



ATCP 11.01(2)

(2) "Accredited veterinarian" means a veterinarian who is both of the following:



ATCP 11.01(2)(a)

(a) Licensed to practice veterinary medicine.



ATCP 11.01(2)(b)

(b) Specifically authorized by the federal bureau and responsible state agency, pursuant to 9 CFR 160 to 162, to perform animal disease eradication and control functions under state and federal animal health laws.



ATCP 11.01(84m)

(84m) "Wisconsin certified veterinarian" means a veterinarian certified under s. ATCP 10.05.



ATCP 11.59

ATCP 11.59 Health standards for fish introduced into waters of the state.



ATCP 11.59(1)

(1) DEFINITIONS. In this section:



ATCP 11.59(1)(am)

(am) "Certified veterinarian" means one of the following:



ATCP 11.59(1)(am)1.

1. For actions taken in this state, a Wisconsin certified veterinarian whom the department has trained to perform disease eradication and control functions related to fish.



ATCP 11.59(1)(am)2.

2. For actions taken outside this state, an accredited veterinarian.



CHAPTER ATCP 15

HUMANE OFFICER TRAINING AND CERTIFICATION

ATCP 15.01 Definitions.

ATCP 15.01(5)

(5) "Veterinarian" means a person licensed under ch. 453, Stats.



MEMORANDUM

DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER
PROTECTION
OFFICE OF LEGAL COUNSEL

DATE: April 27, 2001
TO: Sarah Shapiro-Hurley
FROM: Ruth Heike
SUBJECT: NPIP

In response to our meeting this morning, I am proposing that s. 95.61 be created to read:

95.61 Poultry and farm-raised game birds. (1) The department may require that poultry, farm-raised game birds or eggs used for breeding purposes originate from a flock that participates in the National Poultry Improvement Program.

(2) The department may promulgate rules establishing requirements to participate in the National Poultry Improvement Program.

(3) The department shall, by rule, specify the fee for participation in the National Poultry Improvement Program.

DATCP will not object to including the proposed s. 22.38 that Tom Solon handed out at the meeting.

for the production of baby

Infected flock. A flock in which a laboratory has discovered more birds infected with a communicable poultry disease for which a program has been established under the Plan.

Lay. Approximately 2-3 days after a flock begins to lay or after a flock is put back into production.

Multiplier breeding flock. A flock intended for the production of eggs used for the purpose of producing progeny for commercial production or for other breeding purposes.

Official State Agency. The State Agency recognized by the Department to cooperate in the administration of the Plan.

Official supervision.—(1) As applied to programs. The direction, inspection, and critical evaluation by the Official State Agency of compliance with the provisions of the Plan;

(2) As applied to non-Plan but equivalent State poultry improvement programs. The direction, inspection, and critical evaluation by an officer or agency of the government, of compliance with the publicly announced State poultry improvement program.

Person. A natural person, firm, or corporation.

Plan. The provisions of the National Poultry Improvement Plan contained in this part.

Poultry. Domesticated fowl, including chickens, turkeys, ostriches, waterfowl, and game birds, except doves and quails, which are bred for the primary purpose of producing eggs or meat.

Primary breeding flock. A flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

Quota. Poultry brooding stock and hatching eggs, baby poultry, and start-up poultry.

Program. Management, sanitation, and monitoring procedures that, if complied with, will qualify a flock to maintain qualification for, designation of a flock, products produced from a flock, or a state by an official

classification and illustrative designations as described in §145.10 of this part.

Pullorum disease or pullorum. A disease of poultry caused by *Salmonella pullorum*.

Resistant. A bird that has a positive reaction to a test, required or recommended in parts 145 or 147 of this chapter, for any poultry disease for which a program has been established under the Plan.

Salmonella. Any bacteria belonging to the genus *Salmonella*, including the avian group.

Registered. To treat with a product which is registered by the Environmental Protection Agency as germicidal, fungicidal, pseudomonocidal, or bacteriocidal, in accordance with the specifications for use as shown on the label of each product. The Official State Agency, with the concurrence of the Service, shall approve each product and procedure according to its specified uses.

Service. The Animal and Plant Health Inspection Service, Veterinary Services, of the Department.

Serial. The total quantity of completed product which has been thoroughly mixed in a single container and identified by a serial number.

Sexual Maturity. The average age at which a species of poultry is biologically capable of reproduction.

Started poultry. Young poultry (chicks, pullets, cockerels, capons, poults, ducklings, goslings, keets, etc.) that have been fed and watered and are less than 6 months of age.

State. Any State, the District of Columbia, or Puerto Rico.

State Inspector. Any person employed or authorized under §145.11(b) to perform functions under this part.

Stock. A term used to identify the progeny of a specific breeding combination within a species of poultry. These breeding combinations may include pure strains, strain crosses, breed crosses, or combinations thereof.

Strain. Poultry breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.

S. typhimurium infection or typhimurium. A disease of poultry

caused by *Salmonella typhimurium* or *S. typhimurium* var. *copenhagen*.

Succeeding flock. A flock brought onto a premises during the 12 months following removal of an infected flock.

Suspect flock. A flock shall be considered, for the purposes of the Plan, to be a suspect flock if any evidence exists that it has been exposed to a communicable poultry disease.

Trade name or number. A name or number compatible with State and Federal laws and regulations applied to a specified stock or product thereof.

[36 FR 23112, Dec. 3, 1971, as amended at 38 FR 13706, May 24, 1973; 41 FR 14256, Apr. 2, 1976; 41 FR 48723, Nov. 5, 1976. Redesignated at 44 FR 61586, Oct. 26, 1979, and amended at 47 FR 21001, May 20, 1982; 49 FR 13002, May 10, 1984; 50 FR 19898, May 13, 1985; 54 FR 23954, June 5, 1989; 57 FR 57340, Dec. 4, 1992; 59 FR 12798, Mar. 18, 1994; 63 FR 40009, July 27, 1998]

§ 145.2 Administration.

(a) The Department cooperates through a Memorandum of Understanding with Official State Agencies in the administration of the Plan.

(b) The administrative procedures and decisions of the Official State Agency are subject to review by the Service. The Official State Agency shall carry out the administration of the Plan within the State according to the applicable provisions of the Plan and the Memorandum of Understanding.

(c) An Official State Agency may accept for participation an affiliated flock located in another State under a mutual understanding and agreement, in writing, between the two Official State Agencies regarding conditions of participation and supervision.

(d) The Official State Agency of any State may, except as limited by §145.3(d), adopt regulations applicable to the administration of the Plan in such State further defining the provisions of the Plan or establishing higher standards compatible with the Plan.

(Approved by the Office of Management and Budget under control number 0579-0007)

[36 FR 23112, Dec. 3, 1971. Redesignated at 44 FR 61586, Oct. 26, 1979, and amended at 48 FR 57473, Dec. 30, 1983]

(608-266-3561)
fur and farms

	29.001(30)	29.869(1)	22.01(14)	29.873
badger	✓		✓	
bobcat	✓		✓	
beaver	✓ ✓	✓	✓	
caracul				✓
chinchilla		p. 21-6		✓
cougar	✓			
coyote	✓		✓	
fisher	✓		✓	✓
fitch				✓
fox	✓			✓
gray fox			✓	
red fox			✓	
lynx	✓		✓	
marten	✓		✓	✓
mink	✓	✓	✓	✓
muskrat	✓	✓	✓	

29.001(33)

(33) "Game" includes all varieties of wild mammals or birds.

29.001(36)

(36) "Game animals" includes deer, moose, elk, bear, rabbits, squirrels, fox and raccoon.

29.001(60)

(60) "Nongame species" means any species of wild animal not classified as a game fish, game animal, game bird or fur-bearing animal.

29.014(1)

(1) The department shall establish and maintain open and closed seasons for fish and game and any bag limits, size limits, rest days and conditions governing the taking of fish and game that will conserve the fish and game supply and ensure the citizens of this state continued opportunities for good fishing, hunting and trapping.

29.039

29.039 Nongame species.

29.039(1)

(1) The department may conduct investigations of nongame species to develop scientific information relating to population, distribution, habitat needs, and other biological data to determine necessary conservation measures. The department may develop conservation programs to ensure the perpetuation of nongame species. The department may require harvest information and may establish limitations relating to taking, possession, transportation, processing and sale or offer for sale, of nongame species.

29.047

29.047 Interstate transportation of game.

29.047(1)(a)2.

2. "Game" means any wild animal, wild bird or game fish.

29.171(2)

(2) A resident archer hunting license authorizes the hunting of all game, except bear and wild turkey, during the open seasons for hunting that game with bow and arrow established by the department. This license authorizes hunting with a bow and arrow only, unless hunting with a crossbow is authorized by a Class A, Class B or Class C permit issued under s. 29.193 (2) or a permit issued under sub. (4).

29.177(3)

(3) Findings. The department may issue permits authorized under this section and s. 29.181 only in those years in which the department finds that the size or characteristics of the deer population of this state require additional or special types of deer to be taken for proper game management.

29.193(2)(cr)2.

2. A Class A permit authorizes the holder to shoot or hunt from a stationary vehicle, to fish or troll as authorized under sub. (1) (b) and to hunt certain game with a crossbow as authorized under ss. 29.164 (2) (b), 29.171 (2) and 29.216 (2).

29.193(2)(d)1.

1. A holder of a Class A or Class B permit may be accompanied by a person who is not eligible to apply for a Class A or Class B permit. The accompanying person may not hunt or carry a firearm, bow or crossbow unless that person has been issued the appropriate approval to do so. The assistance rendered by an accompanying person who has not been issued the appropriate approval is limited to field dressing, tagging and retrieving game for the permit holder.

29.193(2)(d)2.

2. A holder of a Class C permit shall be accompanied by a person who is not eligible to apply for a permit under this section. The accompanying person may not hunt or carry a firearm, bow or crossbow unless the person has been issued the appropriate approval to do so. The assistance rendered by an accompanying person may include sighting the firearm, bow or crossbow, identifying the game and field dressing, tagging and retrieving game for the permit holder.

29.216(2)

(2) Authorization. The nonresident archer hunting license authorizes the hunting of all game, except bear, wild turkey and fur-bearing animals, during the open season for the hunting of that game with a bow and arrow. This license authorizes hunting with a bow and arrow only unless hunting with a crossbow is authorized by a Class A, Class B or Class C permit issued under s. 29.193 (2).

29.301(2)

(2) Color of clothing. In the areas in which there is a season for the hunting of deer with firearms, no person may hunt any game except waterfowl during that season unless at least 50% of each article of the person's outer clothing above the waist, including a cap, hat or other head covering, is of a highly visible color commonly referred to as hunter orange, blaze orange, fluorescent orange, flame orange or fluorescent blaze orange. Any person violating this subsection shall forfeit not more than \$10.

29.314(3)(b)3.

3. To a person authorized by the department to conduct a game census or to observe bear for educational purposes.

29.314(4)(b)1.

1. To a peace officer on official business, an employee of the department on official business or a person authorized by the department to conduct a game census.

29.314(5)(b)1.

1. To a peace officer on official business, an employee of the department on official business or a person authorized by the department to conduct a game census or to observe bear for

educational purposes.

29.357(4)

(4) Labeling game shipments. No person shall transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any wild animal or carcass, unless the package or parcel is labeled in plain letters on the address side of the package or parcel with the name and address of the consignor, the name and address of the consignee, and the number of pounds of each kind of fish or the number of each variety of other wild animals; or carcasses contained in the package or parcel; and unless the consignor is the owner of the shipment and delivers to the common carrier with the package or parcel, either personally, or by agent, a writing signed by the consignor personally, stating that the consignor is the owner of the shipment.

29.539

29.539 Sale of game or fish.

29.541

29.541 Serving of game to guests.

29.853

29.853 Possession and sale of live game animals and fur-bearing animals.

29.853(1)(a)3.

3. Restraint or transportation of an animal for game censuses, surveys or other purposes authorized by the department.

29.855(1)(a)2.

2. Restraint or transportation of a skunk for game censuses, surveys or other purposes authorized by the department.

29.927(5)

(5) Any unlicensed trap, snare, spring gun, set gun, net or other device which might entrap, ensnare, or kill game.

29.934

29.934 Sale of confiscated game and objects.

29.934(3)

(3) Confiscated fish or game sold under this section to the owner or operator of a restaurant may be served to customers. The certificate covering the purchase shall be hung in public view in the place where the fish or game is served, and the fish or game shall at the time of sale be tagged by the department or the agent selling it. The tag shall show the date of sale and shall be returned to the department or agent within 5 days after the sale.

29.936

29.936 Distribution of fish and game to food distribution services.

29.936(1)

(1) Notwithstanding s. **29.934**, the department may distribute for free carcasses from fish and

game seized or confiscated under s. 29.931 that are suitable for eating to food distribution services. The department may have the fish or game that is seized or confiscated processed before distributing that fish or game to food distribution services. The department may collect the costs of the processing of the fish or game from the person from whom the fish and game was seized or confiscated.

29.936(2)

(2) The department may notify the person from whom the fish or game was seized or confiscated under s. 29.931 that he or she is liable for the costs incurred by the department for processing the fish or game under this section. The notification shall be mailed to the person's last-known address and shall include the amount that the person is required to pay as well as the address where payment shall be sent.

29.936(3)

(3) If a person fails to pay the processing costs as requested under sub. (2), the department may submit a certification under oath to the clerk of circuit court in the county where the processed fish or game was seized or confiscated. The certification shall state the amount of processing costs unpaid, the name and last-known address of the person who is liable for those costs and such other information as the court considers necessary. The court shall order that the amount certified by the department be a judgment on behalf of the state and against the person if the person fails to submit a written objection to the court within 30 days after the court receives the certification from the department unless the department notifies the court that the envelope including the certification mailed to the person under sub. (4) was returned unopened to the department. If the person timely submits a written objection to the certification, the court shall consider the objection to be a complaint in a civil action and proceed under the rules of procedure under chs. 799 or 801 to 847, without requiring the service of a summons or the payment of filing fees.

29.969

29.969 Larceny of game. A person who, without permission of the owner, disturbs or appropriates any wild animal or its carcass that has been lawfully reduced to possession by another shall forfeit not less than \$1,000 nor more than \$2,000. This section does not apply to farm-raised deer or farm-raised fish.

29.971(3)

(3) For the violation of any statutes or any department order relating to the hunting, taking, transportation or possession of game, by a forfeiture of not more than \$1,000.

29.977(1)(m)

(m) Any game or fur-bearing animal or bird not mentioned in pars. (b) to (h), \$17.50.

29.983(1)(b)13.

13. For any game or fur-bearing animal or bird not mentioned in subs. 2. to 8., \$17.50.

71.10(5)(a)2.

2. "Endangered resources program" means purchasing or improving land or habitats for any native Wisconsin endangered or threatened species as defined in s. 29.604 (2) (a) or (b) or for any **nongame** species as defined in s. 29.001 (60), conducting the natural heritage inventory program under s. 23.27 (3), conducting wildlife and resource research and surveys and providing wildlife management services, providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species, repaying the general fund for amounts expended under s. 20.370 (1) (fb) in fiscal year 1983-84 and the payment of administrative expenses related to the administration of this subsection.

71.30(10)(a)2.

2. "Endangered resources program" means purchasing or improving land or habitats for any native Wisconsin endangered or threatened species, as defined in s. 29.604 (2) (a) or (b), or for any **nongame** species, as defined in s. 29.001 (60); conducting the natural heritage inventory program under s. 23.27 (3); conducting wildlife and resource research and surveys; providing wildlife management services; providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species; and the payment of administrative expenses related to the administration of this subsection.

350.01(5)

(5) "**Game**" has the meaning given in s. 29.001 (33).