



State of Wisconsin  
Scott McCallum, Governor

## Department of Agriculture, Trade and Consumer Protection

James E. Harsdorf, Secretary

DATE: April 5, 2002

TO: State Legislators

FROM: *James E. Harsdorf* James E. Harsdorf, Secretary

SUBJECT: **Chronic Wasting Disease; Emergency Rule**

The Department of Agriculture, Trade and Consumer Protection has adopted an emergency rule (copy attached) related to chronic wasting disease. DATCP adopted this emergency rule in response to the recent finding of chronic wasting disease in wild deer near Mt. Horeb, Wisconsin. This emergency rule regulates the import and movement of captive cervids, including deer and elk. It also requires testing and monitoring of captive herds in Wisconsin.

This emergency rule will take effect on April 9, 2002, upon publication in the official state newspaper. The emergency rule will remain in effect for 150 days. DATCP may ask the Legislature's Joint Committee for Review of Administrative Rules to extend the emergency rule for an additional 120 days. DATCP will begin immediately to develop "permanent" rules, and will likely present hearing draft rules to the Board on May 14, 2002. DATCP will likely hold simultaneous hearings on this rule and the proposed "permanent" rules.

### Background

Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white-tail deer, black-tailed deer, red deer and mule deer. The disease affects the brains of infected animals, and is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid-to-cervid contact facilitates the spread of the disease.

On February 27, 2002, chronic wasting disease was confirmed for the first time in this state. The disease was confirmed in 3 free-ranging white-tail deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected test samples as part of a statewide disease surveillance program. DNR collected a total of 345 samples statewide, including 82 samples in the Mt. Horeb area.

The 3 test-positive deer were shot in close proximity to each other near Mt. Horeb. Since February 27, chronic wasting disease has been found in 7 more free-ranging deer near Mt. Horeb. We do not know how these deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free-ranging herd.

We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free-ranging and captive cervids may also spread the disease.

Persons importing captive cervids to Wisconsin must obtain an import permit from DATCP. Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 white-tail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free-ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

DATCP currently registers captive cervid herds, other than white-tail deer herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

### **Why an Emergency Rule is Needed**

Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free-ranging deer and elk, and about potential threats to humans, livestock and deer-related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending the adoption of "permanent" rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

### Rule Contents

#### **Cervid Imports**

Under this emergency rule, no cervid may be imported into Wisconsin unless an accredited veterinarian certifies one of the following:

- The cervid originates from a herd monitored for at least 5 years under a state-approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
  - Herd members have all been born in the herd or kept in the herd for at least one year.
  - Herd members have not been added from any outside source, or exposed to cervids from any outside source, in the past year.
  - There have been no signs or symptoms of chronic wasting disease in the herd for the past 5 years.
  - Animal health officials in the state of origin have access to herd records for the past 5 years, including records of cervid deaths and causes of death.

#### **Moving Cervids in Wisconsin**

Under this emergency rule, no person may move a live captive cervid from a herd in Wisconsin unless the herd is enrolled in a herd monitoring program (see below). This does not apply to:

- A cervid moved directly to slaughter if the cervid is tested for chronic wasting disease.
- A cervid moved between 2 locations operated by the same herd owner and registered as one herd with DATCP.
- A cervid moved by or under the control of DNR.
- A cervid moved between registered zoos.

#### **Mandatory Testing in Wisconsin**

This rule requires chronic wasting disease testing of captive cervids. There is no test available for live cervids. Tests must be conducted on brain tissue collected from dead cervids. Tests are only effective on cervids at least 16 months old. This rule requires herd owners to have all the following tested for chronic wasting disease:

- All captive cervids at least 16 months old that are shipped to slaughter.
- All captive cervids at least 16 months old whose carcasses (or any part of whose carcasses) leave the herd premises.

A herd owner enrolled in Wisconsin's herd monitoring program (see below) must also test cervids at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. Live cervids may not be shipped from herds that are not enrolled in the monitoring program.

### **Test Standards and Reports**

This rule spells out standards for official chronic wasting disease testing in this state. Under this rule:

- Test samples must be collected by a DATCP-certified veterinarian, a DATCP employee, an employee of the United States department of agriculture, animal and plant health inspection service (APHIS), or another person approved by DATCP. The person must complete training approved by DATCP.
- Test samples must be collected according to standard veterinary procedure, and tested at a laboratory approved by DATCP or APHIS.

Persons must report to DATCP if test results are positive for chronic wasting disease. This reporting requirement applies to voluntary tests, as well as required official tests.

### **Quarantine and Condemnation**

Under this rule, if a captive cervid tests positive for chronic wasting disease, DATCP must quarantine the herd. DATCP may condemn cervids exposed to the disease, and may direct the disposition of their carcasses. The herd owner may apply for statutory indemnity payments. If a cervid owner is eligible, indemnities will normally cover 2/3 of the appraised value of the condemned cervids, but not more than \$1500 for each animal.

### **Herd Monitoring Program**

This rule establishes a herd monitoring program for chronic wasting disease. Live cervids may not be shipped from herds that are not enrolled in the monitoring program. A herd owner who wishes to enroll in the program must do all the following:

- Complete an application form.

- Provide a report of a herd census completed not more than 30 days before the application date.
- Provide a statement from the herd veterinarian. The veterinarian must certify that no cervid in the herd has shown any signs or symptoms of chronic wasting disease in the past 12 months.

DATCP must grant or deny the application within 30 days. A herd is enrolled in the program when DATCP accepts the herd owner's application. The herd owner must do all the following to remain in the program:

- Identify each cervid in the herd, with official individual identification, before the cervid is one year old.
- Test every cervid that dies or is shipped to slaughter, if that cervid is at least 16 months old. This testing requirement applies, regardless of whether the cervid's carcass leaves the herd premises.
- Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.
- Provide an annual statement from the herd veterinarian. The herd veterinarian must certify that no cervid in the herd has shown any signs of chronic wasting disease since the last annual statement.
- File a report of an annual herd census. Among other things, the annual census report must indicate:
  - The number, species and sex of cervids in the herd, and the official individual identification of each cervid that is at least one year old.
  - The number, species and sex of cervids added to the herd since the last reported herd census. The report must indicate whether these new cervids were born into the herd or added from another source. If cervids were added from another source, the report must identify the source from which the cervids were obtained.
  - The number of cervids that left the herd since the last reported herd census. The report must explain how each cervid left the herd, including all the following:
    - \* Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.

- \* If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
- \* If the cervid died on the premises, the cervid's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.
- \* If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.
- Keep complete herd records, and make those records available to DATCP for inspection and copying upon request.

**Fiscal Estimate**

The department will provide a fiscal estimate to each legislator within the next ten days.



State of Wisconsin  
Scott McCallum, Governor

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**Department of Agriculture, Trade and Consumer Protection**  
James E. Harsdorf, Secretary

DATE: April 16, 2002

TO: State Legislators

FROM: James E. Harsdorf  
Secretary

SUBJECT: **Fiscal Estimate On The Emergency Rule To Prevent The Spread of Chronic Wasting Disease, ATCP 10, 11**

Attached, for your information, is the fiscal estimate to accompany the Department of Agriculture Trade and Consumer Protection's emergency rule regulating the import, keeping, and movement of cervids, to prevent the spread of chronic wasting disease. The emergency rule was published on April 9, 2002, a copy of the emergency rule was delivered to legislature on April 5, 2002.

**FISCAL ESTIMATE**  
DOA-2048 N(R10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB and Bill No./Adm. Rule No.  
**ATCP 10,11**  
Amendment No. If Applicable

**Subject** Chronic Wasting Disease - Emergency Rule

**Fiscal Effect**

**State:**  No State Fiscal Effect

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

- 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       Village       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)

**Assumptions Used in Arriving at Fiscal Estimate**

This emergency rule establishes a regulatory program to prevent and control chronic wasting disease in cervids (including deer and elk). This rule applies to captive, not wild, cervids. This rule establishes a mandatory herd monitoring program, testing requirements, annual reporting requirements, and restrictions, regarding Chronic Wasting Disease (CWD), on movement into and within the state of Wisconsin for captive and commercial cervids. There will be significant increases in workload, significant costs for additional staff, and costs to educate and inform the citizens and cervid owners of Wisconsin in order to manage this disease appropriately and responsibly.

The Department is responsible for 985 registered deer farms, with an average herd size of 50 head per herd, that will need to begin testing for CWD in some capacity, and be actively monitored. All cervids, 16 months of age or older, whose carcass leaves the herd premises, for any reason, will require testing. Additionally, in order for these farms to move live animals from their establishments they will need to comply with the herd monitoring program as set out in the rule. This will require increased costs in record keeping, data maintenance, and surveillance and monitoring to assure that the farms and meat processing plants are in compliance with requirements. The additional number of inspections of facilities and record audits will be unmanageable with current staff. With the discovery of CWD in Wisconsin staff will be needed to do thorough investigations that will include interviews and detailed record inspections and follow-ups with all deer farms. Extensive epidemiological investigations will ensue in the event of a quarantine, and could lead to whole herds being euthanized. In order to ensure the health of the captive and commercial deer in Wisconsin more extensive monitoring for illegal movements and active, timely investigations of records and complaints will be necessary.

Public and industry outreach and education will need to be conducted to disseminate accurate and timely information about what is known regarding CWD, what can be done to prevent the spread and what measures the Department is taking. Training for herd owners and veterinarians (department employed and private) will also need to be provided.

To manage and contain the disease it is anticipated that 5 herds per year will need to be bought by the department as deemed necessary through epidemiological evaluation and risk analysis, separate from indemnification. This cost is estimated at \$750,000/ year.

There are no additional revenues that will be generated to the department from these activities.

**Long-Range Fiscal Implications**

Wisconsin is now an endemic state, and will need to test and monitor indefinitely in order to responsibly manage CWD. The current fiscal estimate is for the initial costs identified in managing Chronic Wasting Disease and are for one year. These costs are anticipated to remain constant in FY03 and FY04 at the annual level identified in this fiscal estimate. In the following bienniums, as the program becomes established costs should level off at 1.8 million per year, or 3.6 million per biennium.

Agency/Prepared by: (Name & Phone No.)

DATCP Melissa Mace 224-4883

Authorized Signature/Telephone No.

*Barbara Knapp*  
Barb Knapp 608-224-4746

Date

4/16/2002

**FISCAL ESTIMATE WORKSHEET**

**2001 Session**

Detailed Estimate of Annual Fiscal Effect

ORIGINAL  UPDATED

LRB or Bill No/Adm. Rule No.

Amendment No.

DOA-204 DOA-2047 (R10/94)

CORRECTED  SUPPLEMENTAL

Subject

Chronic Wasting Disease - Emergency Rule

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

II. Annualized Costs:	None	Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		<b>\$712,500</b>	
State Operations - Salaries and Fringes			
(FTE Position Changes)		( 14.0 FTE)	(- FTE)
State Operations - Other Costs		<b>\$1,689,100</b>	
Local Assistance			
Aids to Individuals and Organizations			
<b>TOTAL State Costs by Category</b>		<b>\$2,401,600</b>	
<b>B. State Costs by Source of Funds</b>		<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR		<b>\$2,401,600</b>	
FED			
PRO/PRS			
SEG/SEG-S			
<b>III. State Revenues</b>	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes			
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
<b>TOTAL State Revenues</b>			

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS

\$2,401,600

NET CHANGE IN REVENUES

Agency/Prepared by: (Name & Phone No.)

DATCP Melissa Mace 224-4883

Authorized Signature/Telephone No.

*Barbara Knapp*  
224 4746

Date

4/18/02

STATE OF WISCONSIN

DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION

EMERGENCY RULE

- 1 The state of Wisconsin department of agriculture, trade and consumer protection adopts  
2 the following emergency rule to amend ATCP 11.55(4); to repeal and recreate ATCP  
3 11.56(1) and (2); and to create ATCP 10.57, 10.58 and 11.56(2)(note); relating to chronic  
4 wasting disease in cervids.

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

Statutory Authority: ss. 93.07(1) and 95.20, Stats.

Statutes Interpreted: ss. 93.07(10), 95.20, 95.22, and 95.31, Stats.

This emergency rule regulates the import, keeping and movement of cervids, including deer and elk, to prevent the spread of chronic wasting disease. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers this rule. This rule applies to captive cervids, including farm-raised deer and captive white-tail deer. This rule does not apply to free-ranging deer or elk regulated by the Department of Natural Resources (DNR).

**Background**

Chronic wasting disease was recently discovered in the free-ranging deer population in Wisconsin. Chronic wasting disease is a form of transmissible spongiform encephalopathy, a disease that is always fatal. It is known to affect elk, white-tailed deer, black-tailed deer, mule deer and red deer. Very little is known about the disease, but it appears to be spread by cervid-to-cervid contact. The disease may spread more readily where cervids are concentrated.

Chronic wasting disease has not been diagnosed in captive cervids in this state, but its presence cannot be ruled out. The disease has been diagnosed in some captive herds in other states. This rule establishes a monitoring and testing program for captive cervids in this state. This rule also regulates imports and movement of captive cervids.

## **Importing Cervids to Wisconsin**

Under current rules, no person may import a captive cervid into Wisconsin without a permit from DATCP. The importer, or a veterinarian acting on behalf of the importer, may apply for an import permit. The applicant must identify the herd of origin and the herd of destination.

This rule clarifies that DATCP will not issue a written import permit until DATCP receives a certificate of veterinary inspection completed by a federally accredited veterinarian. The certificate must identify each cervid to be imported, and must certify one of the following:

- The cervid originates from a herd monitored for at least 5 years under a state-approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
  - Herd members have all been born in the herd or kept in the herd for at least one year.
  - Herd members have not been added from any outside source, or exposed to cervids from any outside source, in the past year.
  - There have been no signs or symptoms of chronic wasting disease in the herd for the past 5 years.
  - Animal health officials in the state of origin have access to herd records for the past 5 years, including records of cervid deaths and causes of death.

## **Moving Live Cervids from Herds in Wisconsin**

Under current rules, no person may move a live captive cervid from a herd in this state without a certificate of veterinary inspection. A Wisconsin certified veterinarian must certify that the cervid has tested negative for tuberculosis (there are some exceptions). Under this rule:

- The veterinarian must also certify that the herd of origin has shown no signs or symptoms of chronic wasting disease in the last 12 months. The veterinarian must be the herd veterinarian for the herd of origin.
- The herd of origin must be enrolled in Wisconsin's herd monitoring program (see below).

These requirements do not apply to any of the following:

- A cervid moved directly to slaughter if the cervid is tested for chronic wasting disease.

- A cervid moved between 2 locations operated by the same herd owner, and covered by the same farm-raised deer herd registration.
- A cervid moved by or under the control of DNR.
- A cervid moved between institutions that are accredited by the American association of zoological parks and aquariums.

### **Mandatory Testing in Wisconsin**

This rule requires chronic wasting disease testing of captive cervids. There is no test available for live cervids. Tests must be conducted on brain tissue collected from dead cervids. Tests are only effective on cervids at least 16 months old. This rule requires herd owners to have all the following tested for chronic wasting disease:

- All captive cervids at least 16 months old that are shipped to slaughter.
- All captive cervids at least 16 months old whose carcasses (or any part of whose carcasses) leave the herd premises.

A herd owner enrolled in Wisconsin's herd monitoring program (see below) must also test cervids at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. Live cervids may not be shipped from herds that are not enrolled in the monitoring program (see above).

### **Test Standards and Reports**

This rule spells out standards for official chronic wasting disease testing in this state. Under this rule:

- Test samples must be collected by a DATCP-certified veterinarian, a DATCP employee, an employee of the United States department of agriculture, animal and plant health inspection service (APHIS), or another person approved by DATCP. The person must complete training approved by DATCP.
- Test samples must be collected according to standard veterinary procedure, and tested at a laboratory approved by DATCP or APHIS.
- Veterinarians and others must report to DATCP if test results are positive for chronic wasting disease. This reporting requirement applies to voluntary tests, as well as required tests. Persons receiving positive test results must report within one day, and confirm the report in writing within 10 days.

## **Quarantine and Condemnation**

Under this rule, if a captive cervid tests positive for chronic wasting disease, DATCP must quarantine the herd. DATCP will conduct an epidemiological evaluation to determine the appropriate disposition of the cervids in the herd. DATCP may condemn cervids exposed to the disease, and may direct the disposition of their carcasses. The herd owner may apply for statutory indemnity payments. If a cervid owner is eligible, indemnities will normally cover 2/3 of the appraised value of the condemned cervids, but not more than \$1500 for each animal.

## **Herd Monitoring Program**

This rule establishes a herd monitoring program for chronic wasting disease. This program supplements the mandatory testing requirements described above. Live cervids may not be shipped from herds that are not enrolled in the monitoring program (see above). A herd owner who wishes to enroll in the program must do all the following:

- Complete an application form.
- Provide a report of a herd census completed not more than 30 days before the application date. The census report must include all the following:
  - The number, species and sex of cervids in the herd.
  - The number of cervids at least one year old.
  - The number of cervids less than one year old.
  - The official individual identification (ear tag number or other approved identification) of each cervid that is at least one year old.
- Provide a statement from the herd veterinarian. The veterinarian must certify that he or she is the herd veterinarian, and that no cervid in the herd has shown any signs or symptoms of chronic wasting disease in the past 12 months.

DATCP must grant or deny the application within 30 days. A herd is enrolled in the program when DATCP accepts the herd owner's application. The herd owner must do all the following to remain in the program:

- Identify each cervid in the herd, with official individual identification, before the cervid is one year old.
- Test every cervid that dies or is shipped to slaughter, if that cervid is at least 16 months old. This testing requirement applies, regardless of whether the cervid's carcass leaves the herd premises.
- Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.

- Provide an annual statement from the herd veterinarian. The herd veterinarian must submit the annual statement to DATCP, within 30 days before or after the herd enrollment anniversary date. The veterinarian must certify that he or she is the herd veterinarian, and that no cervid in the herd has shown any signs of chronic wasting disease since the last annual statement.
- File a report of an annual herd census. The herd owner must complete the annual census within 30 days before or after the enrollment anniversary date, and must file the report within 10 days after completing the census. The census report must include all the following:
  - The number, species and sex of cervids in the herd.
  - The number of cervids at least one year old, and the number of cervids less than one year old.
  - The official individual identification of each cervid that is at least one year old.
  - The number, species and sex of cervids added to the herd since the last reported herd census. The report must indicate whether these new cervids were born into the herd or added from another source. If cervids were added from another source, the report must identify the source from which the cervids were obtained.
  - The number of cervids that left the herd since the last reported herd census. The report must explain how each cervid left the herd, including all the following:
    - \* Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
    - \* If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
    - \* If the cervid died on the premises, the cervid's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.
    - \* If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.
- Maintain all the following records for at least 5 years, and make those records available to DATCP for inspection and copying upon request:

- A record of each cervid added to the herd from another source, including:
    - \* The species, age and sex of the cervid.
    - \* The name and address of the person from whom the cervid was obtained.
    - \* The address of the herd from which the cervid was obtained.
  
  - A record of each cervid leaving the herd, including all the following:
    - \* Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
      - \* If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
      - \* If the cervid died on the premises, the apparent cause of death, the cervid's age, and the disposition of the cervid's carcass. If the carcass left the premises, the record must identify the carcass destination or recipient.
      - \* If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment.
  
  - A copy of all records received from the herd veterinarian related to veterinary services provided to the herd.
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## **FINDING OF EMERGENCY**

1           (1) Chronic wasting disease is a contagious disease known to affect several  
2 species of the cervid family, including elk, white-tailed deer, black-tailed deer, red deer  
3 and mule deer. The disease is always fatal. At the present time, there is no scientific  
4 evidence to suggest that chronic wasting disease is transmitted to non-cervids or to  
5 humans. But there is limited scientific knowledge about the disease, and this lack of  
6 knowledge has contributed to public concerns.

7           (2) The cause of chronic wasting disease is not fully understood. The disease  
8 appears to be related to aberrant protein molecules called prions. By an unknown  
9 mechanism, prions apparently cause other protein molecules in the cervid brain to take  
10 aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased

1 cervids become emaciated, display abnormal behavior patterns, and experience loss of  
2 bodily functions.

3 (3) Science does not understand how chronic wasting disease is spread. It is  
4 thought that infected cervids can transmit the disease to other cervids, either directly or  
5 by contaminating their environment. It appears that cervid-to-cervid contact facilitates  
6 the spread of the disease.

7 (4) On February 27, 2002, the national veterinary services laboratory informed  
8 Wisconsin that it had confirmed chronic wasting disease for the first time in this state.  
9 The laboratory confirmed the disease in test samples collected from 3 free-ranging white-  
10 tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin  
11 Department of Natural Resources (DNR) collected these samples as part of a statewide  
12 disease surveillance program. With the voluntary cooperation of hunters, DNR collected  
13 test samples from deer killed and registered by hunters at selected hunting registration  
14 sites around the state. DNR collected a total of 345 samples statewide, including 82  
15 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic  
16 wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in  
17 close proximity to each other in Vermont Township in Dane County. We do not know  
18 how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of  
19 infection in the free-ranging herd.

20 (5) We do not know whether any captive cervids in Wisconsin are infected with  
21 chronic wasting disease (there are no findings to date). If captive cervids are infected, the  
22 close proximity of cervids within a captive herd may facilitate the spread of disease  
23 within the herd. The movement of infected cervids between herds may spread the disease

1 to other herds. Contact between free-ranging and captive cervids may also spread the  
2 disease.

3 (6) Persons importing captive cervids to Wisconsin must obtain an import permit  
4 from the Wisconsin Department of Agriculture, Trade and Consumer Protection  
5 (DATCP). Importers must identify the herd of origin and the herd of destination. A  
6 veterinarian must certify that the cervids appear to be in good health, and that they have  
7 been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing  
8 requirement, because there is no way to test live cervids for the disease.

9 (7) Since 1995, a total of 2,604 captive cervids have been legally imported into  
10 Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other  
11 cervids. Chronic wasting disease has been found in free-ranging herds or in some captive  
12 herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming.  
13 Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from  
14 these states. Most other states lack active chronic wasting disease surveillance programs,  
15 so the full extent of the disease is not known with certainty.

16 (8) DATCP currently registers captive cervid herds, other than white-tail deer  
17 herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has  
18 sponsored a voluntary program to monitor for chronic wasting disease among the captive  
19 herds that it registers. Approximately 50 herd owners currently participate in this  
20 program.

21 (9) Since chronic wasting disease was confirmed in this state, there has been  
22 widespread public concern about the disease. The public has expressed concern about the  
23 health of free-ranging deer and elk, and about potential threats to humans, livestock and

1 deer-related businesses. Hunters and consumers have expressed food safety concerns.  
2 There is currently no scientific evidence to suggest that chronic wasting disease is  
3 transmissible to non-cervids or to humans. But there is limited scientific knowledge  
4 about the disease, and this lack of knowledge has contributed to public concerns.

5 (10) In order to protect the public peace, health, safety and welfare, it is  
6 necessary to take immediate steps to prevent and control the spread of chronic wasting  
7 disease in this state. Among other things, it is necessary to impose further controls on the  
8 import and movement of captive cervids and to implement a mandatory monitoring  
9 program. DATCP may adopt rules to implement these measures.

10 (11) Normal rulemaking procedures require up to a year or more to complete. A  
11 temporary emergency rule is needed to protect the public peace, health, safety and  
12 welfare, pending the adoption of longer-term rules. This emergency rule will implement  
13 essential prevention and control measures on an immediate, interim basis.

## 14 EMERGENCY RULE

15 SECTION 1. ATCP 10.57 and 10.58 are created, under subch. VII of ch. ATCP  
16 10, to read:

17 **ATCP 10.57 Chronic wasting disease in captive cervids. (1) TESTING**  
18 **REQUIRED.** A person who keeps captive cervids in this state shall have chronic wasting  
19 disease tests performed on all the following:

20 (a) Any captive cervid that dies or is killed on the premises, if any part of the  
21 cervid's carcass leaves the herd premises. A person trained and authorized under sub. (3)  
22 shall collect the test sample before any part of the carcass leaves the herd premises, and

1 shall submit the sample for testing at a laboratory approved under sub. (4). This  
2 paragraph does not apply to cervids less than 16 months old.

3 (b) Any captive cervid that is shipped to slaughter from the herd premises. A  
4 person trained and authorized under sub. (3) shall collect the test sample after the cervid  
5 is slaughtered, and shall submit the sample for testing at a laboratory approved under sub.  
6 (4). This paragraph does not apply to cervids less than 16 months old.

7 (2) MOVING LIVE CAPTIVE CERVIDS FROM HERDS IN THIS STATE. No person may  
8 move a live captive cervid from a herd in this state unless the movement complies with s.  
9 ATCP 11.56(1).

10 (3) COLLECTING TEST SAMPLES. (a) One of the following persons shall collect a  
11 test sample under sub. (1) and submit it for testing:

- 12 1. A certified veterinarian.
- 13 2. An employee of the department or the federal bureau.
- 14 3. A person that the department approves in writing.

15 (b) Before a person under par. (a) collects a test sample under sub. (1), that  
16 person shall complete training approved by the department. A person shall comply with  
17 standard veterinary procedures when collecting a test sample under sub. (1).

18 (4) APPROVED LABORATORIES. Tests under sub. (1) shall be performed at a  
19 laboratory that the department or the federal bureau has approved to conduct chronic  
20 wasting disease tests.

21 (5) REPORTING DISEASE FINDINGS. Whenever any person receives a laboratory  
22 test result that is positive for chronic wasting disease, that person shall immediately  
23 report that result to the department. The person shall report by telephone, FAX or other

1 rapid means within one day after receiving the test result, and shall report in writing  
2 within 10 days. The person shall provide a copy of the test result to the owner of the  
3 tested cervid.

4 **NOTE:** The reporting requirement under sub. (5) applies to *any* laboratory test  
5 result that is positive for chronic wasting disease, not just the result of a  
6 test required under sub. (1). Telephone and FAX reports should be made  
7 to the following numbers:

8  
9 Phone: (608) 224-4872  
10 FAX: (608) 224-4871

11  
12 Written reports should be made to the following address:  
13  
14 Wisconsin Department of Agriculture, Trade and Consumer Protection  
15 Division of Animal Health  
16 P.O. Box 8911  
17 Madison, WI. 53708-8911

18  
19 **(6) HERD QUARANTINE.** The department shall quarantine a herd of captive  
20 cervids, under s. ATCP 10.70, whenever any cervid from that herd tests positive for  
21 chronic wasting disease. The department shall conduct an epidemiological evaluation of  
22 the quarantined herd to determine the appropriate disposition of the herd.

23 **(7) CONDEMNED CERVIDS.** (a) The department may order the slaughter or  
24 destruction of a captive cervid infected with or exposed to chronic wasting disease, as  
25 provided in s. 95.31, Stats. If the department orders the slaughter or destruction of a  
26 cervid, the department shall direct the disposition of the carcass. The herd keeper shall  
27 dispose of the carcass as the department directs.

28 (b) The owner of a captive cervid slaughtered or destroyed under par. (a) may  
29 request an indemnity as provided under s. 95.31, Stats. The owner shall file the request  
30 with the department, on a form provided by the department. The owner shall include,  
31 with the request, a slaughter confirmation signed by an authorized employee of the

1 department or the federal bureau. A cervid owner does not qualify for an indemnity if the  
2 owner fails to properly dispose of the carcass.

3 **ATCP 10.58 Chronic wasting disease in captive cervids; herd monitoring**  
4 **program. (1) GENERAL.** A person who keeps captive cervids in this state may enroll  
5 the herd in the chronic wasting disease monitoring program under this section.

6 **NOTE:** No person may move a live captive cervid from a herd in this state  
7 unless the herd is enrolled in the monitoring program under this section.  
8 See ss. ATCP 10.57(2) and 11.56(1).  
9

10 **(2) APPLICATION.** To enroll a herd in the monitoring program under this section,  
11 a person shall complete and submit a form provided by the department. The application  
12 shall include all the following:

13 (a) The name, address and telephone number of the herd owner, and any trade  
14 names under which the herd owner does business.

15 (b) The name, address and telephone number of the herd custodian, if other than  
16 the herd owner.

17 (c) The herd location or locations, including the county, township, section and  
18 fire number assigned to that location.

19 (d) A report of a complete herd census completed no more than 30 days prior to  
20 the date of application. The applicant shall submit the census report on a form provided  
21 by the department. The census report shall include all the following:

- 22 1. The number, species and sex of cervids in the herd.
- 23 2. The number of cervids at least one year old.
- 24 3. The number of cervids less than one year old.
- 25 4. The official individual identification of each cervid that is at least one year old.

1 **NOTE:** See ss. ATCP 10.01(45) and 11.545(1). An official individual  
2 identification is a unique identifying number contained on an eartag or  
3 other permanent identifier on the cervid.  
4

5 (e) A written statement, by a certified veterinarian, that certifies all the following:

6 1. That the veterinarian is the herd veterinarian, having established a valid  
7 veterinarian-client relationship with the herd owner and a valid veterinarian-patient  
8 relationship with the herd.

9 2. That no cervid in the herd has shown any signs or symptoms of chronic  
10 wasting disease in the past 12 months.

11 (3) ACTION ON APPLICATION. The department shall grant or deny an application  
12 under sub. (2) within 30 days after the department receives a complete application. The  
13 herd is enrolled in the monitoring program under this section on the day that the  
14 department accepts the application.

15 (4) CONTINUED ENROLLMENT. A person who enrolls a herd in the monitoring  
16 program under this section shall do all the following to continue that enrollment:

17 (a) Identify every cervid in the herd with official individual identification before  
18 the cervid is one year old.

19 (b) Test for chronic wasting disease every cervid that dies or is shipped to  
20 slaughter, if that cervid is at least 16 months old.

21 (c) Notify the herd veterinarian within 24 hours after observing any signs or  
22 symptoms of chronic wasting disease in the herd.

23 (d) Complete an annual herd census and file a report of that herd census under  
24 sub. (5).

25 (e) Create and maintain complete herd records under sub. (6).

1 (f) Provide the department with an annual written statement from the herd  
2 veterinarian. A Wisconsin certified veterinarian shall sign and submit the statement  
3 within 30 days before or after the anniversary of the herd's enrollment under sub. (3).

4 The statement shall certify all the following:

5 1. That the veterinarian is the herd veterinarian, having established a valid  
6 veterinarian-client relationship with the herd owner and a valid veterinarian-patient  
7 relationship with the herd.

8 2. That the herd has not shown any signs or symptoms of chronic wasting  
9 disease in the past 12 months.

10 (5) ANNUAL HERD CENSUS. A person shall complete an annual herd census under  
11 sub. (4)(d) within 30 days before or after the anniversary of the herd's enrollment under  
12 sub. (3). The person shall file an annual census report under sub. (4)(d), on a form  
13 provided by the department, within 10 days after completing the annual herd census.

14 The report shall include all the following:

15 (a) The number, species and sex of cervids in the herd.

16 (b) The number of cervids at least one year old.

17 (c) The number of cervids less than one year old.

18 (d) The official individual identification and any auxiliary identification of each  
19 cervid that is at least one year old.

20 (e) The number, species and sex of cervids added to the herd since the last  
21 reported herd census. The report shall indicate whether these new cervids were born in  
22 the herd or added from another source. If cervids were added from another source, the  
23 report shall identify the source from which those cervids were obtained.

1 (f) The number, species and sex of cervids that have left the herd since the last  
2 reported herd census. The report shall indicate, for each cervid, all the following:

3 1. Whether the cervid died on the premises, was shipped to slaughter, or was  
4 shipped live other than to slaughter.

5 2. If the cervid was shipped live other than to slaughter, the name and address of  
6 the person to whom it was shipped and the place to which it was shipped.

7 3. If the cervid died on the herd premises, the cervid's age and the disposition of  
8 its carcass. If the carcass left the premises, the report shall identify the carcass  
9 destination or recipient. If the cervid was at least 16 months old, the report shall include  
10 a report of the chronic wasting disease test result.

11 4. If the cervid was shipped to slaughter, the cervid's age and the name and  
12 address of the slaughter establishment. If the cervid was at least 16 months old, the  
13 report shall include a report of the chronic wasting disease test result.

14 (6) HERD RECORDS. A person shall keep the following herd records under sub.  
15 (4)(e), and shall make them available to the department for inspection and copying upon  
16 request:

17 (a) A record of each cervid added to the herd from another source, including:

18 1. The species, age and sex of the cervid.

19 2. The name and address of the person from whom the cervid was obtained.

20 3. The address of the herd from which the cervid was obtained.

21 4. A copy of the certificate of veterinary inspection related to the shipment.

22 (b) A record of each cervid leaving the herd, including all the following:

1  
2 1. Whether the cervid died on the premises, was shipped to slaughter, or was  
3 shipped live other than to slaughter.

4 2. If the cervid was shipped live other than to slaughter, the name of the person to  
5 whom it was shipped, the place to which it was shipped and a copy of the certificate of  
6 veterinary inspection related to the shipment.

7 3. If the cervid died on the premises, the apparent cause of death, the cervid's  
8 age, and the disposition of the cervid's carcass. If the carcass left the premises, the  
9 record shall identify the carcass destination or recipient.

10 4. If the cervid was shipped to slaughter, the cervid's age and the name and  
11 address of the slaughter establishment.

12 (c) A record of all chronic wasting disease tests conducted on cervids in the herd.

13 (d) Records received from the herd veterinarian related to veterinary services  
14 provided to the herd.

15 **(7) SUSPENDING ENROLLMENT.** (a) The department may, without prior notice or  
16 hearing, suspend a herd's enrollment in the herd monitoring program under this section if  
17 any of the following apply:

18 1. A person falsifies any information in an enrollment application, or any  
19 subsequent information required for continued enrollment.

20 2. A person fails to comply with requirements under sub. (4) for continued  
21 enrollment.

22 (b) The state veterinarian or designee may issue a suspension order under par. (a).  
23 A person adversely affected by a suspension order may request a hearing before the  
24 department, as provided in ch. 227, Stats., and ch. ATCP 1.

1 **NOTE:** If a herd is suspended from enrollment in the herd monitoring program,  
2 no captive live cervid may be moved from that herd to another herd. See  
3 ss. ATCP 10.57(2) and 11.56(1).  
4

5 **SECTION 2.** ATCP 11.55(1)(d) is created to read:

6 ATCP 11.55(1)(d) One of the following statements, or a statement substantially  
7 similar:

8 1. "All cervids identified on this certificate originate from a herd whose  
9 members have all been born in the herd or kept in the herd for at least 12 months.  
10 No cervids have been added from any outside source, nor has the herd been exposed  
11 to cervids from any outside source, during the past 12 months. No cervid in the  
12 herd has been diagnosed with, or shown clinical signs of, chronic wasting disease in  
13 the last 5 years. There has been no epidemiological evidence of chronic wasting  
14 disease in the herd during the past 5 years. The herd owner keeps complete herd  
15 records, including records of all deaths and causes of death during the last 5 years,  
16 and makes these records available to state animal health officials."  
17

18 2. "All cervids identified on this certificate originate from a herd monitored  
19 for the last 5 years under a state-recognized chronic wasting disease monitoring  
20 program that complies with federal uniform methods and rules."  
21

22 **SECTION 3.** ATCP 11.55(4) is amended to read:

23  
24 ATCP 11.55(4) **IMPORT PERMIT REQUIRED.** No person may import a cervid into  
25 this state without a written import permit under s. ATCP 11.03. The department may not  
26 issue a permit until the department receives a certificate of veterinary inspection that  
27 complies with sub. (1).

28 **SECTION 4.** ATCP 11.56(1) and (2) are repealed and recreated to read:

29 ATCP 11.56(1) **MOVING LIVE CAPTIVE CERVIDS FROM HERDS IN THIS STATE.**

30 Except as provided in sub. (2), no person may move a live captive cervid from a herd in  
31 this state unless all the following apply:

1 (a) The cervid is accompanied by a certificate of veterinary inspection. A  
2 Wisconsin certified veterinarian shall sign the certificate, and shall certify that he or she  
3 is the herd veterinarian for the herd of origin.

4 (b) The certificate of veterinary inspection under par. (a) certifies that the cervid  
5 tested negative on a single cervical tuberculin test, or another tuberculosis test approved  
6 by the department, within 90 days before the cervid is moved. This requirement does not  
7 apply to any of the following:

- 8 1. A cervid less than 6 months old.
- 9 2. A cervid moved directly to a tuberculosis isolation and testing facility under  
10 sub. (4), pursuant to a department permit under s. ATCP 11.60(4).
- 11 3. A cervid that originates from an accredited tuberculosis free herd.

12 (c) The certificate of veterinary inspection under par. (a) certifies that no cervid  
13 in the herd has shown signs or symptoms of chronic wasting disease in the last 12  
14 months.

15 (d) The herd is currently enrolled in the chronic wasting disease monitoring  
16 program under s. ATCP 10.58.

17 (2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

18 (a) A captive cervid moved directly to slaughter, if all the following apply:

19 1. The cervid is accompanied by a slaughter movement permit (APHIS form  
20 VS 1-27).

21 2. The cervid, if at least 16 months old, is tested for chronic wasting disease.

22 (b) The cervid is moved between 2 locations operated by the same herd owner,  
23 and covered by the same farm-raised deer herd registration.

1 (c) The cervid is moved by or under the control of the department of natural  
2 resources.

3 (d) The cervid is moved between institutions that are accredited by the American  
4 association of zoological parks and aquariums.

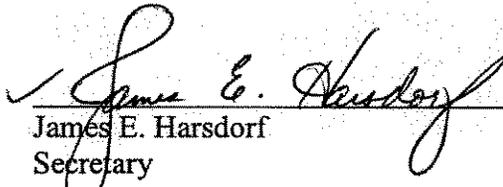
5 **SECTION 5.** ATCP 11.56(2)(note) is created to read:

6 **NOTE:** Section ATCP 10.57(1)(a) requires that specimens be collected for  
7 chronic wasting disease testing from every captive cervid if the cervid was  
8 at least 16 months old and the carcass or any part of the carcass leaves the  
9 herd premises.

10 **EFFECTIVE DATE:** This emergency rule shall take effect on the day it is published  
11 in the official state newspaper, and shall remain in effect for 150 days, as provided in s.  
12 227.24(1)(c), Stats. The department may seek to extend this emergency rule as provided  
13 in s. 227.24(2), Stats.  
14

Dated this 3 day of April, 2002.

**STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION**

  
James E. Harsdorf  
Secretary