DATCP Docket No. 07-R-01
Rules Clearinghouse No. 07-107

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

The Wisconsin department of agriculture, trade and consumer protection proposes the following order ***to repeal*** ATCP 10.01(71)(g)3., 10.55(3)(c) and (d), (4)(c) and (d), and (5), 10.60(4)(note), 10.61(3)(note), 10.66(1)(c) to (L), 12.02(5), 12.03(6), 12.04(2)(c)3. and (5), and 17.02(4)(h)11. and 12.; ***to renumber and amend*** ATCP 10.60(1) ; to ***amend*** ATCP 10.01(39) and (59), 10.04(1)(title) and (a)(intro.), 10.08(4) and (5), 10.11(5)(a)1., 10.15(6), 10.19(2)(b) and (3)(a), 10.22(9)(b), 10.37(1)(a)2., 10.40(1)(d)1., (4)(b)1. and (6)(c) and (d), 10.41(2) and (6), 10.46(3), (6)(c), (7)(b) and (c), (8), (9)(b) and (11)(c), 10.47(7)(b)6., 10.48(6)(c), 10.52(1)(intro.), 10.53(5)(f)(intro.) and 1., (7)(a)5. and (8)(b), 10.55(4)(b), 10.56(3)(d)1., 10.61(1)(intro.) and (note, first paragraph), (2)(intro.) and (5), 10.62(3)(c), 10.63(2), 10.64(1) and (2), 10.65(1), 10.75, 10.90(1), 10.91(title) and (1)(intro.), 12.02(1), 12.045(3)(a) and (4), 12.05(4), 12.06(1)(bc), 12.08(6), 17.01(8) and (28), and 17.02(1) and (note), (2)(a)(note), (2)(b), (4)(d), (5)(d) and (6)(a); ***to repeal and recreate*** ATCP 10.07(4)(c), 10.22(5)(b)4., 10.42(1)(a), 10.46(title), (1), (4), (5) and (12), 10.51(1) and (2), 10.52(3)(a), (3)(c)2. and (8), 10.53(7)(a)4., 10.56(4)(b), 10.61(3), (5)(note), (6) and (7), 10.65(4), (4m) and (5)(b)4., 10.66(1)(b), ch. ATCP 10 *Appendix B*, ATCP 12.045(1) and (note), and 17.02(2)(c) and (4)(h)1. and 8. to 10.; and ***to create*** ATCP 10.01(31m) and (63m), 10.04(1)(a)5. and 6., 10.09, 10.15(1)(d), 10.19(2)(a)3., 10.22(7m), 10.46(6)(em) and (12)(note), 10.47(3)(a)(note), (b)5. and (b)6., (4m), and (4m)(note), 10.49(4), 10.51(4), 10.53(4)(g) and (g)(note), (5)(f)5., (5)(g) to (i) and (i)(note), and (9)(d), 10.56(1)(d) and (note) and (4)(c) and (note), 10.58, 10.60(1), 10.61(5m), 10.61(12) and (note),

1 10.62(2)(b)3. and (c)3., 10.64(3), 10.645 and (note), 10.65(4m)(note), 10.655, 10.85, 10.92(1)(r),

2 12.02(8)(j), 12.03(9)(i), 12.05(6), and 17.02(2)(c)(note) and (4)(bm); ***relating to*** animal diseases

3 and movement; animal markets, dealers and truckers; and livestock premises registration.

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

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

- Establishes new rules related to viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. This "permanent" VHS control rule is similar, but not identical, to temporary "emergency" VHS control rules previously adopted by DATCP.

- Modifies current rules related to farm-raised deer, including rules related to herd registration, disease control, imports, movement and condemnation. Changes are consistent with proposed federal rules.

- Modifies current rules related to cattle, including rules related to voluntary Johne's disease testing and classification, tuberculosis import testing, and imports of cattle originating from Mexico.

- Modifies current rules related to poultry imports and enrollment in the national poultry improvement program.

- Modifies current rules related to animal markets, dealers and truckers.

- Modifies current rules related to Wisconsin's livestock premises registration program. This rule extends the current registration period from one year to 3 years, for the convenience of registrants and to reduce program costs.

- Clarifies current disease indemnity appraisal procedures.

- Makes minor drafting changes to update, clarify and correct current rules.

Statutes Interpreted

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

Statutory Authority

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

Explanation of Statutory Authority

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

Related Statutes and Rules

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

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

Rule Contents

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

Fish

Fish Farm Registrations

Under current rules, fish farm operators must register fish farms as either a *type 1* or *type 2* fish farm, depending on the activities conducted at the fish farm. Under current rules, a fish farm

operator may allow public fishing at a *type 1*or *type 2* fish farm, but may only sell or distribute fish from a *type 2* fish farm (there are limited exceptions).

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

- An operator may allow public fishing (including public fishing for a fee) at a *type 1*, *type 2* or *type 3* fish farm.

- An operator may not sell or distribute fish from a *type 1* fish farm (there are limited exceptions).

- An operator may sell or distribute fish from a *type 2 or type 3* fish farm.

- An operator may not sell or distribute fish from a fish farm that receives any fish or fish eggs from wild sources unless that fish farm is registered as a *type 3* fish farm (there are limited exceptions).

This rule clarifies fish farm registrations:

- A fish farm registration is limited to a single fish farm location (a single land parcel or contiguous land parcels). All of the fish farm facilities on contiguous parcels may be registered as a single fish farm.

- Fish farms on non-contiguous land parcels must be registered as separate fish farms.

- A person may register 2 or more fish farms in a single application process.

- An operator may register 2 or more fish farms located on the same land parcel, or on contiguous land parcels, subject to the following conditions:

    - The fish farms must be "medically-separated." DATCP must inspect the fish farms to confirm that they are "medically separated" (DATCP will charge an inspection fee of $400 per day of inspection).
    - Each fish farm is considered a separate fish farm for purposes of disease control and movement.
    - Fish or fish eggs moved between the fish farms must be accompanied by a fish health certificate, and the operator must keep a record of the movement.

Registrant Responsibility

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

Viral Hemorrhagic Septicemia; Expanded Testing

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

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

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

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

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

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

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

- Fish or fish eggs stocked into Wisconsin public waters. There is a limited exemption (see below) for fish or fish eggs reintroduced to the same water body from which they are collected.

- Fish moved between Wisconsin fish farms, or from a Wisconsin fish farm to any other place (there are limited exemptions for fish shipped to food processing or retail food establishments).

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

bait dealer is not required to conduct duplicate tests on fish previously tested by a wholesale bait dealer.

This rule also does the following:

- Prohibits any person from selling bait fish *of any kind* if the seller has reason to know that the bait is affected with VHS or another reportable disease.

- Provides that a fish health certificate covering a fish farm or fish shipment becomes immediately void if fish or fish eggs not covered by a valid fish health certificate are added to the covered fish farm or fish shipment.

Fish Reintroduced to Same Water Body; Testing Exemption

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

- DATCP issues a permit for the reintroduction.

- DNR approves the collection and reintroduction.

- The fish or fish eggs are not commingled with fish or fish eggs from any other water source.

- The fish or fish eggs are reintroduced into the same lake from which they were collected, or at the same point or a downstream point in the same river system from which they were collected.

- The fish or fish eggs are reintroduced within 30 days after they are collected, or within 30 days after the fish eggs hatch, whichever is later.

- The fish or fish eggs are reintroduced for the purpose of increasing or rehabilitating the population of a desirable sport fishing species.

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

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

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

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

VHS Test Reports

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

Farm-Raised Deer

Chronic Wasting Disease Test Reports

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

Herd Registration; General

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

One Registered Herd Kept at 2 or More Locations

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

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

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

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

Two or More Registered Herds Kept at the Same Location

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

- The registrant(s) must declare whether the herds are "medically separated" or not. "Medically separated" herds must be kept in separate enclosures, under conditions that effectively preclude disease transmission between the herds. DATCP must inspect "medically separated" herds to verify the separation. DATCP will charge an inspection fee of $150 ($200 after July 1, 2009), as provided in current rules.

- If the herds are "medically separated:"

  - Each herd is considered a separate herd for purposes of disease control, movement, and enrollment in Wisconsin's chronic wasting disease herd status program.
  - Farm-raised deer moved between any of the herds must be accompanied by a certificate of veterinary inspection, and registrants must keep a detailed record of each movement.

- If the herds are *not* "medically separated:"

  - All of the farm-raised deer covered by the herd registrations are collectively treated as a single herd for purposes of disease control and movement, regardless of location or ownership, and regardless of whether they are part of the same registered herd.

  - Farm-raised deer may be moved between any of the herd locations identified on any of the herd registration certificates, without a certificate of veterinary inspection, provided that they are identified with official individual identification. Registrants must keep detailed records of the movements.

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

Chronic Wasting Disease Tests

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

Condemnation of Farm-Raised Deer

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

- Specify a reasonable deadline for destruction of the condemned animals.

- Direct appropriate disease testing and disposition of the carcasses.

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

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

Chronic Wasting Disease Herd Status Program; Annual Census

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

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

- An explanation and accounting for overall changes in herd population since the last annual census.

- Census verification by a Wisconsin certified veterinarian if required by the department.

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

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

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

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

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

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

White-tailed Deer Herd; Fence Certificate

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

Hunting Preserves

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

- An estimate of the farm-raised deer population on the hunting preserve premises, by species, age and sex.

- The identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers.

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

Disease-Free Certification of Farm-Raised Deer

Certification Period

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

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

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

Testing for Certification

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

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

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

Tuberculosis in Farm-Raised Deer

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

Importing Farm-Raised Deer

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

Moving Farm-Raised Deer Within Wisconsin

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

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

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

Returning Escaped Farm-Raised Deer to a Herd

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

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

Cattle

Johne's Disease Testing and Herd Classification

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

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

Imported Cattle and Bison; TB Test Exemption

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

Cattle and Bison from Mexico

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

Poultry

National Poultry Improvement Plan Enrollment

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

Showing Poultry

This rule clarifies that poultry enrolled in the National Poultry Improvement Plan or in the Wisconsin Tested Flock program may attend shows and exhibitions without losing status as long

as all poultry at the show or exhibition have tested negative for pullorum, fowl typhoid and in the case of turkeys, Mycoplasma gallisepticum.

Poultry Imports

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

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

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

- They originate from flocks enrolled in the national poultry improvement plan.
- They originate from flocks classified as "U.S. pullorum-typhoid clean" and, in the case of turkeys and turkey eggs, "Mycoplasma gallisepticum clean" under the national poultry improvement plan or under an equivalent plan approved by DATCP.

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

Llamas and Alpacas

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

Illegally Moved Animals

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

Animal Markets

General

This rule does all of the following:

- Eliminates the current requirement for animal market operators to pass a test before being initially licensed by DATCP.

- Requires animal market operators to transport and handle animals in a safe and humane manner.

- Clarifies animal transport vehicle registration requirements.

- Requires animal market operators to record the official individual identification of goats, if the goats bear official individual identification.

- Requires animal market operators to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.

Federally-Approved Livestock Import Markets

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

Animal Dealers

This rule does all of the following:

- Eliminates the current requirement for animal dealers to pass a test before being initially licensed by DATCP.

- Requires animal dealers to transport and handle animals in a safe and humane manner.

- Clarifies animal transport vehicle registration requirements.

- Requires animal dealers to record the official individual identification of goats, if the goats bear official individual identification.

- Requires animal dealers to record the livestock premises code, if any, of each premises from which the dealer receives or to which the dealer ships livestock.

Animal Truckers

This rule does all of the following:

- Eliminates the current requirement for animal truckers to pass a test before being initially licensed by DATCP.

- Eliminates the current license exemption for animal truckers that haul animals for other persons fewer than 6 times per license year.

- Requires animal truckers to transport and handle animals in a safe and humane manner.

- Clarifies animal transport vehicle registration requirements.

- Requires animal truckers to record the livestock premises code, if any, of each premises from which the trucker receives or to which the trucker ships livestock.

Slaughter Establishments

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

Disease Indemnities

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

Reportable Diseases

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

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

Prohibited Practices

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

Livestock Premises Registration

Registration Renewal Period

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

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

Who May Register

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

Other Changes

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

Fiscal Impact

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

Impact on DNR

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

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

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

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

Impact on DATCP

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

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

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Business Impact

Aquaculture Industry

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

This rule will benefit the aquaculture industry by helping to control the spread of VHS, a very serious disease of fish. This rule will also benefit fish farm operators, by simplifying current fish farm registration requirements (operators will be able to register multiple fish farms on a single registration form). However, this rule may add costs or limit operations for some fish farmers and bait dealers, as described below.

Fish Farm Operators

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

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

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

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

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

Bait Dealers

Wisconsin bait dealers are currently licensed by DNR. This rule will affect licensed bait dealers in 2 ways:

- If bait dealers buy VHS-susceptible bait species that originate from wild sources, their purchase costs may reflect the seller's added cost of VHS testing under this rule.

- If bait dealers collect VHS-susceptible bait species from wild sources, they will need to conduct VHS tests before reselling or distributing the bait. They will also need to withhold the bait from distribution for at least 4 weeks pending the completion of VHS tests. That will add costs, and may not be practically feasible for affected bait dealers.

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

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

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

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

Farm-Raised Deer Keepers

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

- Requires veterinarians who perform chronic wasting disease (CWD) tests to report test results to DATCP.

- Changes the annual expiration date for farm-raised deer herd registrations, from December 31 to March 15.

- Clarifies that a person may keep farm-raised deer at 2 or more locations identified in a single herd registration certificate, subject to specified conditions.

- Clarifies that separately-registered farm-raised deer herds may be kept at the *same location* (even if they are owned by different persons), subject to specified conditions.

- Modifies current CWD testing requirements. Under current rules, a test must be performed on every farm-raised deer at least 16 months old that dies in captivity, or is killed or sent to slaughter (the test sample must be sent to an approved laboratory within 10 days after it is collected). Under this rule, a test sample must be collected within 7 calendar days after the animal dies, or is killed or slaughtered (or within 7 calendar days after the death is first discovered). Under this rule as under the current rules, the test sample must be sent to an approved laboratory within 10 calendar days after it is collected.

- Clarifies current rules related to DATCP condemnation of diseased or suspect farm-raised deer. Under this rule, a condemnation order may specify a reasonable compliance deadline, may direct appropriate testing and disposition of carcasses, and may require the herd owner or custodian to enter into a "premises plan" as a condition to the payment of state indemnities.

- Clarifies annual herd census requirements under Wisconsin's chronic wasting disease herd status program. Under this rule, an annual herd census must report apparent escapes, and must explain and account for changes in herd population since the last census.

- Modifies current rules related to reports of escaped farm-raised deer. A herd owner must report an escape to DATCP within 24 hours after the herd owner knows, or has reason to know, of the escape. If the escaped deer is returned to the herd, the herd owner must also report the return within 24 hours. An animal returned more than 72 hours after it escapes (24 hours in a wild deer disease control zone designated by DNR) loses any status that it may have had under a herd certification or status program, and is considered a new addition to the herd. That may affect the overall herd status (if an escaped animal is not returned to the herd, there is no effect on herd status).

- Clarifies that a person applying to register a herd of white-tailed deer with DATCP must include, with the registration application, a copy of a valid DNR fence certificate (currently required by law) for each registered location.

- Clarifies that a person applying for a 10-year hunting preserve certificate from DATCP must include, in the application, an estimate of the farm-raised deer population on the hunting preserve premises (by species, age and sex). The application must also include the identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers. Under this rule, all non-natural additions to a hunting preserve must have 2 forms of official individual identification, one visible and one implanted.

- Extends the term of a brucellosis-free herd certification, from 2 years to 3 years, so that it is consistent with the term of a tuberculosis-free herd certification. That will allow herd owners to conduct simultaneous tests for both diseases.

- Allows DATCP to extend the 15-day slaughter deadline for tuberculosis reactors by up to 30 days (current rules allow only a 15-day extension).

- Modifies current tuberculosis regulations for imports of farm-raised deer, to make them consistent with federal standards for interstate movement. This rule also eliminates current requirements for post-import testing.

- Clarifies current rules related to movement of farm-raised deer from registered herds in this state. Under current rules, farm-raised deer may not be moved unless the herd has been enrolled in the farm-raised deer herd status program for at least 5 years. Under this rule, if 2 or more wild deer killed within 5 miles of the deer farm have tested positive for chronic wasting disease, farm-raised deer may not be moved from the deer farm unless the deer farm is double-fenced to prevent contact with infected wild deer.

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

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

Cattle and Goat Producers

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

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

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

Poultry Producers

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

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

Animal Markets, Dealers and Truckers

This rule does all of the following:

- Eliminates the current requirement for animal market operators, animal dealers and animal truckers to pass a test before being initially licensed by DATCP.

- Requires animal market operators, animal dealers and animal truckers to transport and handle animals in a safe and humane manner.

- Clarifies animal transport vehicle registration requirements.

- Requires animal market operators, animal dealers and animal truckers to record the official individual identification of goats that bear official individual identification.

- Requires animal market operators, animal dealers and animal truckers to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.

- Requires operators of federally-approved livestock import markets to disclose, to livestock recipients, the state of origin of livestock leaving the import market.

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

Persons Keeping Livestock; Premises Registration

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

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

Slaughter Establishments

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

Disease Indemnities

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

Accommodation for Small Business

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

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

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

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

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

Federal and Surrounding State Programs

Federal Programs

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

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

USDA has less well-developed programs for new or localized diseases, or emerging animal-based industries. States often take a lead role in developing programs to address new animal health issues and disease threats (farm-raised deer and fish diseases, for example), particularly if those issues or threats have a more local or regional focus. Wisconsin's program related to fish and farm-raised deer are perhaps the leading programs in the nation, and have provided models for proposed federal programs.

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

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

Surrounding State Programs

General

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

Aquaculture

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

- Minnesota requires fish import permits, and licenses fish farms and fish dealers. Health certification is required for fish imports, but not for fish farms. Bait imports are prohibited.

- Iowa requires fish import permits, and licenses fish farms. Health certification is required for fish imports, but not for fish farms.

- Illinois licenses fish farms and fish dealers. An import permit and health certification is required for certain fish imports (salmonids). There is limited regulation of fish transport vehicles.

- Michigan licenses fish farms. Health certification is required for fish imports.

Johne's Disease

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

Data and Analytical Methodologies

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

Standards Incorporated by Reference

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

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

DATCP Contact

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

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SECTION 1: ATCP 10.01(31m) is created to read:

ATCP 10.01(31m) "DHIA Technician" means a person approved by a service affiliate of the dairy herd improvement association to certify dairy farm production information.

SECTION 2: ATCP 10.01(39) and (59) are amended to read:

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

(59) "Johne's disease national program standards" means the program standards for the national voluntary Johne's disease control program, as published in federal bureau publication 91-45-016 (~~November 2005~~ June 2006).

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

ATCP 10.01(63m) "M-branded" means branded with the letter "M" to signify imported from Mexico.

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

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

ATCP 10.04(1)(title) ~~VETERINARIAN TO REPORT~~ DUTY TO REPORT TEST RESULTS. (a) A veterinarian, qualified fish health inspector, certified veterinary technician or DHIA technician who tests an animal in this state for any of the following diseases shall report the test result to the department, regardless of whether the test result is positive or negative:

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

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

6. Viral hemorrhagic septicemia.

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

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

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

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

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

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

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

SECTION 9. ATCP 10.09 is created to read:

ATCP 10.09 Appraised value of condemned animals. If the owner of an animal destroyed under s. 95.21(4)(b), 95.23(1m), 95.25, 95.26, 95.27 or 95.31(3) or (4), Stats., is eligible for a state indemnity for that animal under ch. 95, Stats. If the animal is of a type not frequently sold at public auction, the department shall appoint a knowledgeable independent appraiser to determine the appraised value of the animal. The appraiser shall determine the appraised value based on the animal's size, species, sex, and grade or quality, and by relevant information related to prevailing market prices for animals of that size, species, sex, and grade or quality. The appraiser may, as appropriate, conduct market surveys to obtain relevant price information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATCP 10.22(9)(b) *Permit application.* To obtain an approved import feedlot permit, a feedlot operator shall submit an application on a form provided by the department. The application shall identify the location of the feedlot by county, ~~township~~ town and section, and shall include other relevant information required by the department, including the feedlot's livestock premises code under ch. ATCP 17. The application shall include a nonrefundable fee of $75. The department shall grant or deny a permit application within 30 days after a complete application is filed with the department.

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

ATCP 10.22(9)(b) *Permit application.* To obtain an approved import feedlot permit, a feedlot operator shall submit an application on a form provided by the department. The application shall identify the location of the feedlot by county, ~~township~~ town and section, and shall include other relevant information required by the department, including the feedlot's livestock premises code under ch. ATCP 17. The application shall include a nonrefundable fee

of $140. The department shall grant or deny a permit application within 30 days after a complete application is filed with the department.

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

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

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

ATCP 10.40(1)(d)1. They have individually tested negative for pullorum, fowl typhoid and, in the case of turkeys, Mycoplasma gallisepticum, within the preceding 90 days ~~and prior to any change of ownership~~, and there has been no change of ownership of any birds since the completion of testing. Testing for purposes of a fair or livestock exhibition shall be completed before the birds arrive at the fair or livestock exhibition.

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

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

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

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

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

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

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

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

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

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

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

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

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

ATCP 10.46 Farm-raised deer herds; registration. (1) REGISTRATION CERTIFICATE REQUIRED. (a) Except as provided in par. (e), no person may keep farm-raised deer at any location in this state unless the department has issued a current annual farm-raised deer herd registration certificate authorizing that person to keep farm-raised deer at that location. A herd registration certificate is not transferable between persons or locations, except as authorized under s. 95.55(3c)(b), Stats.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the herds are medically separated under par. (c), each herd is considered a separate herd for purposes of disease control, movement, and enrollment in the chronic wasting disease status program under s. ATCP 10.53. Farm-raised deer moved between any of the medically separated herds shall be accompanied by a certificate of veterinary inspection under s. ATCP 10.56(1), and registrants shall keep a record under sub. (10)(a) related to each movement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: For example, if a farm-raised deer escapes into a chronic wasting disease management zone established by the department of natural resources under NR 10, and is returned to the herd more than 24 hours after the escape, it loses any status that it had under the chronic wasting disease herd status program (ATCP 10.53). It *also* loses any status that it had under the tuberculosis herd certification

program (ATCP 10.49) and the brucellosis herd certification program (ATCP 10.51).

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

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

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

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

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

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

NOTE: See s. ATCP 10.01(71).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ATCP 10.51(4) CERTIFICATION TRANSFERRED, OR ISSUED BASED ON SOURCE HERD CERTIFICATION. The department may not transfer a herd certification under sub. (1) to another herd or herd registrant, or certify a herd based solely on prior certification of another herd from which the herd received its farm-raised deer, unless all of the following apply:

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

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

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

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

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

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

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

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

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

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

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

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

1. Specify a reasonable deadline for the slaughter or destruction.

2. Direct appropriate disease testing and disposition of the carcasses.

3. Require the herd owner or custodian to enter into a premises plan agreement under par. (b), within a reasonable time specified in the order, as a condition to the payment of indemnities under par. (c). The terms of a premises plan agreement may be contingent on the outcome of disease testing.

(b) A premises plan agreement under par. (a)3. may require the herd owner or custodian to clean and disinfect the herd premises, limit future cervid movement to and from the premises, or comply with other requirements that are reasonably designed to prevent the spread of disease.

An agreement may include a restrictive covenant, such as a fence maintenance requirement, that is binding on subsequent property owners for the duration of the agreement.

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

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

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

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

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

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

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

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

1. Whether the farm-raised deer <u>escaped,</u> died on the premises, was shipped directly to a slaughtering establishment for slaughter, or was shipped to a place other than a slaughtering establishment.

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

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

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

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

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

3. The circumstances that resulted in the escape.

4. Steps taken to prevent recurring escapes.

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

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

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

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

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

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

ATCP 10.53(7)(a)5. Fewer than ~~92%~~ 90% of the farm-raised deer that left the herd by death, escape or slaughter in any ~~2 of the 5 proceeding years~~ census year, including farm-raised

deer whose remains were not testable because of deterioration when found, were tested for chronic wasting disease according to sub. (4)(b).

(8)(b) The department may by written notice, without prior notice or hearing, revoke a herd's enrollment in the herd status program under this section if the herd keeper fails, within ~~a reasonable time~~ 90 days after the department suspends the herd's enrollment under sub. (7), to correct conditions for which ~~that~~ the department has suspended the herd's enrollment ~~under sub. (7)~~. ~~A reasonable period of time to correct conditions under sub. (7)(a)4. is 6 months.~~

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

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

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

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

NOTE: For example, if under sub. (7)(a)5. the department suspends a herd's enrollment in the chronic wasting disease herd status program because the farm-raised deer keeper tested only 19 of the 30 herd members that died or were slaughtered during a census year (less than 90%), the department may reinstate the enrollment if

within 60 days the farm-raised deer keeper kills and tests at least 10 farm-raised deer from the herd. Reinstatement may also be conditioned on the keeper's agreement to pay a court-ordered civil forfeiture under s. 95.99(3), Stats., for violation of the testing requirement under s. ATCP 10.52(1).

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

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

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

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

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

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

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

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

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

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

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

ATCP 10.56(4)(c) It is adequately separated from any wild deer herd known to be infected with chronic wasting disease. If 2 or more wild deer found or killed within 5 miles of the farm-raised deer herd have tested positive for chronic wasting disease, the certificate of veterinary inspection may not certify that the farm-raised deer herd is adequately separated under this paragraph unless the herd is enclosed by a double protective barrier under s. ATCP 10.58

that was installed before, or within a reasonable time after, the farm-raised deer keeper first received notice of the disease finding in the second wild deer and has been continuously maintained since erected.

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

SECTION 54. ATCP 10.58 is created to read:

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

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

1. Each fence is at least 8 feet high at every point.

2. The 2 fences are at least 10 feet but not more than 16 feet apart at every point.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: See ss. ATCP 10.60(1) and (1m). A fish farm operator may register, as a single fish farm, all fish farm facilities that are located on the same land parcel or on contiguous land parcels. Fish farm facilities located on non-contiguous land parcels must be registered as separate fish farms. A fish farm operator may choose to register fish farm facilities as separate fish farms, even though the facilities are located on the same land parcel or contiguous land parcels, if the facilities comply with sub. (5m).

SECTION 64. ATCP 10.61(5m) is created to read:

ATCP 10.61(5m) REGISTERING 2 OR MORE FISH FARMS AT A SINGLE LOCATION. (a) A person may obtain separate registration certificates for 2 or more fish farms located on the same or contiguous

land parcels if the fish farms are medically separated. Fish farms are medically separated if all of the following apply:

1. Fish and fish eggs in each fish farm are effectively separated from fish and fish eggs in every other fish farm.

2. Bio-security procedures, including procedures to prevent the commingling of fish, fish eggs, or water that may bear disease organisms, effectively prevent disease transmission between the fish farms.

3. The department finds that the fish farms comply with subds. 1. and 2., based on an inspection under par. (c).

(b) Each registered fish farm under par. (a) is considered a separate fish farm for purposes of disease control and movement. Fish and fish eggs moved between any of the registered fish farms shall be accompanied by a valid health certificate under s. ATCP 10.65(4)(c). The fish farm operator shall keep a record, under sub. (10)(a), related to each movement of fish or fish eggs between any of the registered fish farms.

(c) Before the department issues separate registration certificates under par. (a) for fish farms located on the same land parcel or contiguous land parcels, the department shall inspect the fish farms for compliance with par. (b). The fish farm operator shall pay a nonrefundable fee of $400 for each day, or portion of a day, needed to complete the inspection. A single fee covers all of the inspected fish farms. No inspection is required for the renewal of an existing fish farm registration if the department has previously inspected the fish farm under this paragraph.

SECTION 65. ATCP 10.61(6) and (7) are repealed and recreated to read:

ATCP 10.61(6) APPLYING FOR A REGISTRATION CERTIFICATE. To obtain an annual fish farm registration certificate under sub. (1), a fish farm operator shall submit an application to the department on a form provided by the department. The application shall include all of the following:

(a) The operator's name, address and telephone number.

(b) The following information for each fish farm that the operator wishes to register:

1. The fish farm location, including county, town, section, fire number, and geographic coordinates if known.

2. The livestock premises code assigned to the fish farm under s. ATCP 17.02(7).

3. A statement indicating whether the operator wishes to register the fish farm as a type 1, type 2 or type 3 fish farm.

4. Applicable fees required under sub. (7).

5. The name, address and telephone number of the individual responsible for administering the fish farm.

6. The species of fish or fish eggs hatched or kept at the fish farm.

7. A description of the fish farm facilities.

8. A description of the fish farming activities conducted at the fish farm.

9. A statement indicating whether wild source fish or fish eggs are received at or shipped from the fish farm facility.

10. A statement indicating whether the operator is registering any other fish farms located on the same land parcel or a contiguous land parcel.

(c) A statement indicating whether the fish farm operator engages in any of the following activities:

1. Buying, trading or importing fish or fish eggs for resale, processing or exchange within this state, other than solely for breeding, bait or human consumption.

2. Distributing fish or fish eggs, other than fish or fish eggs produced on the operator's fish farm, from any place in this state to any place outside this state.

(d) Other relevant information required by the department.

(7) REGISTRATION FEES. (a) Except as provided in par. (c), a fish farm operator shall pay the following annual fish farm registration fees, as applicable:

1. A nonrefundable fee of $37.50 for a type 1 fish farm, or a total nonrefundable fee of $50 for 2 or more type 1 fish farms.

2. A total nonrefundable fee of $125 for up to 5 type 2 or type 3 fish farms, $150 for more than 5 but not more than 10 type 2 or type 3 fish farms, $200 for more than 10 but not more than 20 type 2 or type 3 fish farms, and $300 for more than 20 type 2 or type 3 fish farms.

(b) A fish farm operator who proposes to register 2 or more fish farms located on the same land parcel or contiguous land parcels shall pay the inspection fee required under sub. (5m)(c) after the department conducts the inspection and bills the fee to the operator.

(c) Primary and secondary school districts are exempt from registration fees under par. (a).

(d) A fish farm operator shall pay the full annual registration fee under par. (a) for a fish farm that is registered for any portion of a registration year.

(e) A fish farm operator shall pay, in addition to the annual registration fee under par. (a), a surcharge equal to the amount of that fee if the department determines that, within 365 days prior to submitting a registration application under sub. (6), the operator operated the fish farm without a registration certificate required under sub. (1) or (3). Payment of the surcharge does not relieve the

operator of any other penalty or liability that may result from the violation, nor does it constitute evidence of a violation.

SECTION 66. ATCP 10.61(12) and (note) are created to read:

ATCP 10.61(12) REGISTRANT RESPONSIBILITY. A person who registers a fish farm under sub. (1) shall ensure that fish farm operations comply with relevant provisions of this chapter. This subsection does not relieve other persons of liability for violations of this chapter.

NOTE: If the Wisconsin Department of Natural Resources (DNR) registers as the operator of a privately-owned "cooperator" fish farm under sub. (1), DNR is responsible for ensuring that all operations of that fish farm comply with this chapter (the private operator may also be held responsible if that operator violates this chapter).

SECTION 67. ATCP 10.62(2)(b)3. and (c)3. are created to read:

ATCP 10.62(2)(b)3. All of the dead fish and offal from the buildings are disposed of by means of rendering, composting, municipal solid waste disposal, or other means approved by the department.

(c)3. All of the dead fish and offal from the receiving facility are disposed of by means of rendering, composting, municipal solid waste disposal, or other means approved by the department.

SECTION 68. ATCP 10.62(3)(c) is amended to read:

ATCP 10.62(3)(c) A description of the fish or fish eggs that the permit holder may import from the source identified under par. (b). The description shall include the species of fish or fish eggs, ~~the quantity of each species,~~ and the size <u>of fish</u> of each species.

SECTION 69. ATCP 10.63(2) is amended to read:

ATCP 10.63(2) DISEASED FISH. No person may introduce live fish or fish eggs into waters of the state <u>or distribute live fish or fish eggs for sale as bait</u> if that person knows, or has

reason to know, that those fish or fish eggs are infected with or show clinical signs of any reportable disease under s. ATCP 10.66.

SECTION 70. ATCP 10.64(1) and (2) are amended to read:

ATCP 10.64(1) VALID HEALTH CERTIFICATE REQUIRED. ~~No~~ Except as provided in sub. (3), no person may move any live fish or fish eggs between fish farms in this state or from a fish farm to any other location in this state, unless those fish or fish eggs are covered by a valid health certificate under s. ATCP 10.65. A qualified fish health inspector shall issue the health certificate based on an inspection of the fish or fish eggs, or of the farm from which they originate. A health certificate does not cover a movement that occurs after the health certificate expires.

(2) DISEASED FISH. No person may move any live fish or fish eggs between fish farms in this state, or from a fish farm to any other location in this state, if that person knows, or has reason to know, that those fish or fish eggs are infected with or show clinical signs of any reportable disease under s. ATCP 10.66.

SECTION 71. ATCP 10.64(3) is created to read:

ATCP 10.64(3) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) Fish or fish eggs moved between fish farms registered under s. ATCP 10.61 by the same fish farm operator, if the operator keeps a complete record of the movement under s. ATCP 10.61(10). This exemption does not apply to any of the following:

1. The movement of fish or fish eggs from a type 3 fish farm to a type 1 or type 2 fish farm.

2. The movement of fish or fish eggs between fish farms that are required under s. ATCP 10.61(5m) to be medically separated.

(b) Fish or fish eggs moved to a food processing plant, retail food establishment or restaurant for processing or direct sale consumers, provided that the receiving entity does not do any of the following:

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

2. Commingle the fish or fish eggs with fish or fish eggs that may be used for any other purpose.

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

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

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

SECTION 72. ATCP 10.645 and (note) are created to read:

ATCP 10.645 Bait fish from wild sources. No bait dealer who is required to hold a license under s. 29.509, Stats., may distribute for use as bait any of the following fish or fish eggs of a species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia (VHS) unless the fish or fish eggs are covered by a valid fish health certificate that complies with s. ATCP 10.65:

(1) Fish or fish eggs collected from a wild source within the 12 month period immediately preceding the distribution date.

(2) Fish or fish eggs from a type 3 fish farm.

NOTE: A "wild source" under s. ATCP 10.645 includes a wild source in this state or outside this state. Fish and fish eggs imported from other states (including bait fish and fish eggs) must also comply with import requirements under s. ATCP 10.62. Species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia are listed at www.aphis.usda.gov/vs/aqua/. Section ATCP 10.645 applies to additional species if and when the federal bureau finds that those species are susceptible. DATCP will identify susceptible species (per USDA findings) in the fish health certificate form under s. ATCP 10.65.

SECTION 73. ATCP 10.65(1) is amended to read:

ATCP 10.65(1) GENERAL. A fish health certificate under s. ATCP 10.61(3)(g)2., 10.62(3)(f), 10.63(1), ~~or~~ 10.64(1) or 10.645 shall comply with this section.

SECTION 74. ATCP 10.65(4) and (4m) are repealed and recreated to read:

ATCP 10.65(4) CERTIFICATE CONTENTS. (a) A fish health certificate under s. ATCP 10.62(3)(f) shall certify that the fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all of the following:

1. Visible signs of contagious or infectious disease.

2. Infectious hematopoietic necrosis, viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*) if an import shipment covered by the health certificate includes salmonids.

3. White sturgeon iridovirus if an import shipment covered by the health certificate includes sturgeon.

4. Viral hemorrhagic septicemia (VHS) if an import shipment covered by the health certificate includes fish or fish eggs from a state or province where that disease is known to occur.

5. Other diseases, if any, specified on the certificate form. The certificate form shall identify the species for which, and circumstances under which, the disease-free certification is required.

(b) Except as provided in s. ATCP 10.655, a fish health certificate issued under s. ATCP 10.61(3)(g)2. or 10.63(1) shall certify that the fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all of the following:

1. Visible signs of contagious or infectious disease.

2. Whirling disease (*Myxobolus cerebralis*) if a fish farm or shipment covered by the health certificate includes salmonids.

3. Viral hemorrhagic septicemia (VHS) if the health certificate covers fish or fish eggs of a species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia (VHS), and the fish or fish eggs are from a wild source or a type 3 fish farm.

NOTE: A "wild source" under subd. 3. includes a wild source in this state or outside this state. Fish and fish eggs imported from other states (including bait fish and fish eggs) must also comply with import requirements under s. ATCP 10.62. Species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia are listed at www.aphis.usda.gov/vs/aqua/. Subdivision 3. applies to additional species if and when the federal bureau finds that those species are susceptible. DATCP will identify susceptible species (per USDA findings) in the fish health certificate form under s. ATCP 10.65.

4. Other diseases, if any, specified on the certificate form. The certificate form shall identify the species for which, and circumstances under which, the disease-free certification is required.

(c) A fish health certificate issued under s. ATCP 10.64(1) shall certify that the fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all of the following:

1. Visible signs of contagious or infectious disease.

2. Viral hemorrhagic septicemia (VHS) if the health certificate covers fish or fish eggs of species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia (VHS), and the fish or fish eggs are from a wild source or type 3 fish farm.

NOTE: A "wild source" under subd. 2. includes a wild source in this state or outside this state. Fish and fish eggs imported from other states (including bait fish and fish eggs) must also comply with import requirements under s. ATCP 10.62. Species that the federal bureau has found to be susceptible to viral hemorrhagic septicemia are listed at www.aphis.usda.gov/vs/aqua/. Subdivision 2. applies to additional species if and when the federal bureau finds that those species are susceptible.

DATCP will identify susceptible species (per USDA findings) in the fish health certificate form under s. ATCP 10.65.

3. Other diseases, if any, specified on the certificate form. The certificate form shall identify the species for which, and circumstances under which, the disease-free certification is required.

(d) A fish health certificate issued under s. ATCP 10.645 shall certify that the fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all of the following:

1. Visible signs of contagious or infectious disease.

2. Viral hemorrhagic septicemia (VHS).

3. Other diseases, if any, specified on the certificate form. The certificate form shall identify the species for which, and circumstances under which, the disease-free certification is required.

NOTE: A fish health certificate is required under s. ATCP 10.645 whenever a bait dealer distributes as bait any of the following fish or fish eggs of a species that the federal bureau has found to be susceptible to VHS:

- Fish or fish eggs collected from a wild source (in Wisconsin or elsewhere) within the 12 month period immediately preceding the distribution date.

- Fish or fish eggs from a type 3 fish farm.

(e) A fish health certificate shall include test results from a qualified laboratory to confirm the statements under pars. (a) to (d) if those test results are required by the certificate form.

(f) Fish egg inspection under this subsection may be based on brood stock inspection and, if testing is required by the certificate form, testing of the brood stock.

NOTE: A certificate form that includes requirements under par. (a)5., (b)4., (c)3., (d)3., (e) or (f) constitutes an order under s. 93.07(10), Stats., which is subject to review in a contested case hearing under ch. 227, Stats., and ch. ATCP 1 unless the

department adopts those requirements by rule. If a health certificate does not comply with instructions on the certificate form, the health certificate is invalid.

(4m) EXPIRATION DATE. (a) Except as provided in par. (b):

1. A health certificate based on an inspection under sub. (3)(a) expires 30 days after it is issued unless the department by written notice specifies a different expiration date.

2. A health certificate based on an inspection under sub. (3)(b) expires one year after it is issued unless the department by written notice specifies a different expiration date.

(b) A health certificate covering a fish farm, or covering a shipment of fish or fish eggs, is automatically voided if any fish or fish eggs not covered by a valid health certificate are added to that fish farm or shipment.

SECTION 75. ATCP 10.65(4m)(note) is created to read:

NOTE: A shipment of fish or fish eggs that is covered by more than one fish health certificate must be delivered prior to the expiration of ANY of the fish health certificates covering fish or fish eggs in that shipment.

SECTION 76. ATCP 10.65(5)(b)4. is repealed and recreated to read:

ATCP 10.65(5)(b)4. Special disease concerns that are not adequately addressed by the health certificate. These may include special disease concerns related to the species of fish or fish eggs, or the source from which the fish or fish eggs originate.

SECTION 77. ATCP 10.655 is created to read:

ATCP 10.655 Fish reintroduced into their original wild source. (1) HEALTH CERTIFICATE CONTENTS; EXEMPTION. Sections ATCP 10.65(4)(b)2. and 3. do not apply to the reintroduction of fish or fish eggs to the same lake from which they or the eggs from which they were hatched were collected, or to the same point or a downstream point in the same river system from which they or the eggs from which they were hatched were collected, if all of the following apply:

(a) The state veterinarian or designee issues a permit under sub. (2) authorizing the reintroduction.

(b) The collection and reintroduction are approved, in writing, by the Wisconsin department of natural resources.

(c) The reintroduction is designed to increase or rehabilitate a population of desirable sport fish species.

(d) The fish or fish eggs are reintroduced within 30 days after they are collected, or within 30 days after the fish are hatched, whichever is later.

(e) The fish or fish eggs are not commingled with fish or fish eggs from any other source.

(2) PERMIT. A permit under sub. (1)(a) may authorize one or more reintroductions under sub. (1), subject to conditions specified in the permit. A permit shall be based on a complete application under sub. (3). The state veterinarian, or the state veterinarian's designee, shall grant or deny an application under sub. (3) within 30 days after the department receives a complete application.

(3) PERMIT APPLICATION. A person applying for a permit under sub. (2) shall submit the application in writing. The application shall include all of the following:

(a) The correct legal name and address of the applicant.

(b) The location from which the fish or fish eggs will be collected.

(c) The location at which the fish or fish eggs will be reintroduced.

(d) The purpose for the reintroduction.

(e) Documentation showing that the Wisconsin department of natural resources has approved the collection and reintroduction under sub. (1)(b).

(f) Documentation indicating that the reintroduction will comply with other requirements under sub. (1)(c) to (e).

(g) Other relevant information required by the department.

(4) PERMIT RECORD. The department shall keep, for at least 5 years, a record of each permit issued under sub. (2).

SECTION 78. ATCP 10.66(1)(b) is repealed and recreated to read:

ATCP 10.66(1)(b) Any fish disease identified in *Appendix B*.

SECTION 79. ATCP 10.66(1)(c) to (L) are repealed.

SECTION 80. ATCP 10.75 is amended to read:

ATCP 10.75 Goats; Johne's disease. The state program for Johne's disease in goats is equivalent to the program for bovine animals in ss. ATCP 10.15 ~~to 10.19~~, 10.16, and 10.18 to 10.20, except that test eligible animals in the goat program shall be 18 months of age or older.

SECTION 81. ATCP 10.85 is created to read:

ATCP 10.85 Llama and alpaca imports. No person may import a llama or alpaca into this state unless the llama or alpaca is accompanied by a valid certificate of veterinary inspection. The certificate shall include the official individual identification of the llama or alpaca.

SECTION 82. ATCP 10.90(1) is amended to read:

ATCP 10.90(1) DEPARTMENT MAY ISSUE ORDER. The department may issue a temporary animal hold order whenever the department has reason to believe that animals may have been illegally ~~imported~~ moved, or may have been exposed to an infectious, contagious or communicable disease. A temporary animal hold order may prohibit the movement of animals for up to 90 days while the department investigates the suspected illegal ~~import~~ movement or

disease exposure. The department may issue the order without prior notice or hearing. The department may, for good cause, extend the order for up to 90 days.

SECTION 83. ATCP 10.91(title) and (1)(intro.) are amended to read:

ATCP 10.91 Destruction or removal of animals illegally ~~imported~~ moved. (1) SUMMARY ORDER. The department may, without prior notice or hearing, order the destruction or removal from this state of animals ~~imported~~ moved into or within this state if any of the following apply:

SECTION 84. ATCP 10.92(1)(r) is created to read:

ATCP 10.92(1)(r) Sell, move or dispose of any live animal that has been tested for a disease identified in *Appendix A or B* before the result of that test is known.

SECTION 85. Chapter ATCP 10 *Appendix B* is repealed and recreated in the following form:

Chapter ATCP 10

APPENDIX B

Diseases Reported Within 10 Days

Multiple species diseases
Anthrax
Echinococcosis/hydatidosis
Heartwater
Leptospirosis
New world screwworm (Cochliomyia hominivorax)
Old world screwworm (Chrysomya bezziana)
Paratuberculosis also known as Johne's Disease
Q Fever

Fish diseases
Channel catfish virus
Enteric septicemia of catfish
Epizootic haematopoietic necrosis
Infectious haematopoietic necrosis
Largemouth bass virus
Mycobacteriosis infection
Oncorhynchus masou virus disease
Proliferative kidney disease
Spring viraemia of carp
Streptococcus iniae
Viral haemorrhagic septicaemia
Whirling disease (Myxobolus cerebralis)
White sturgeon iridovirus

Sheep and goat diseases
Caprine and ovine brucellosis (excluding B. ovis)
Caprine arthritis/encephalitis
Contagious agalactia
Contagious caprine pleuropneumonia
Enzootic abortion of ewes (ovine chlamydiosis)
Maedi-visna
Nairobi sheep disease
Ovine epididymitis (Brucella ovis)
Ovine pulmonary adenomatosis
Salmonellosis (S. abortusovis)
Scrapie

Swine diseases
Atrophic rhinitis of swine
Enterovirus encephalomyelitis
Porcine cysticercosis
Porcine reproductive and respiratory syndrome
Transmissible gastroenteritis
Trichinellosis

Bee diseases
Acariosis of bees
American foulbrood
European foulbrood
Nosemosis of bees
Varroosis

Lagomorph diseases
Myxomatosis
Rabbit hemorrhagic disease

Cattle diseases
Bovine anaplasmosis
Bovine babesiosis
Bovine spongiform encephalopathy
Bovine cysticercosis
Bovine genital campylobacteriosis
Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis
Dermatophilosis
Enzootic bovine leukosis
Haemorrhagic septicaemia
Malignant catarrhal fever
Theileriosis
Trichomonosis
Trypanosomosis (tsetse-borne)

Equine diseases
Contagious equine metritis
Dourine
Epizootic lymphangitis
Equine infectious anemia
Equine influenza
Equine piroplasmosis
Equine rhinopneumonitis
Equine viral arteritis
Glanders
Horse mange
Horse pox
Japanese encephalitis
Surra (Trypanosoma evansi)
Venezuelan equine encephalomyelitis

Avian diseases
Avian chlamydiosis
Avian infectious bronchitis
Avian infectious encephalomyelitis
Avian infectious laryngotracheitis
Avian mycoplasmosis (M. gallisepticum)
Avian tuberculosis
Duck virus enteritis
Duck virus hepatitis
Fowl cholera

Orinthosis (psittacosis)
Mycoplasma gallisepticum infection
Paramylovirus infections of poultry other than Newcastle disease
Salmonellosis
Infectious laryngotracheitis
Fowl pox
Fowl typhoid
Marek's disease
Infectious bursal disease (Gumboro disease)

Mollusc diseases
Haplosporidiosis (H. nelsoni or H. costale)
Bonamiosis
Marteiliosis
Mikrocytosis (Mikrocytos mackini)
Perkinsosis

Diseases of other animal species
Leishmaniosis

1

SECTION 86. ATCP 12.02(1) is amended to read:

ATCP 12.02(1) LICENSE REQUIRED. No person may operate an animal market without an annual license from the department. A separate license is required for each animal market. The license shall bear ~~a~~ the livestock premises code issued ~~to the license holder~~ under s. ATCP 17.02(7) for the animal market. An annual license expires on June 30. A license is not transferable between persons or animal markets.

SECTION 87. ATCP 12.02(5) is repealed.

SECTION 88. ATCP 12.02(8)(j) is created to read:

ATCP 12.02(8)(j) Transport and handle animals in a safe and humane manner.

SECTION 89. ATCP 12.03(6) is repealed.

SECTION 90. ATCP 12.03(9)(i) is created to read:

ATCP 12.03(9)(i) Transport and handle animals in a safe and humane manner.

SECTION 91. ATCP 12.04(2)(c)3. and (5) are repealed.

SECTION 92. ATCP 12.045(1) and (note) are repealed and recreated to read:

ATCP 12.045(1) ANNUAL REGISTRATION STICKER REQUIRED. (a) No animal market operator, animal dealer or animal trucker may operate an animal transport vehicle unless each side of the vehicle bears one part of a 2-part annual vehicle registration sticker issued by the department. An annual vehicle registration sticker expires on June 30.

(b) The department may issue an annual vehicle registration sticker under par. (a) to a licensed animal market operator, animal dealer or animal trucker who owns or operates the vehicle. If a license holder owns a vehicle operated by another license holder, the license holder that owns the vehicle shall obtain the vehicle registration sticker under par. (a).

(c) If a registrant under par. (b) controls the operation of the animal transport vehicle for less than the full registration year, the registrant shall record the name and address of each person who controlled the operation of the vehicle at any time during the year, and the time period during which that person controlled that operation. The registrant shall retain the record for at least 5 years, and shall make it available to the department for inspection and copying upon request.

NOTE: Subsection (1) applies to animal transport vehicles operated by animal market operators, animal dealers and animal truckers, regardless of who owns the animals transported in those vehicles.

Under sub. (1)(c), if a registrant leases an animal transport vehicle to or from another person for part of the registration year, the registrant must record the name and address of the other party to the lease, and the time period of the lease.

SECTION 93. ATCP 12.045(3)(a) and (4) are amended to read:

ATCP 12.045(3)(a) A person shall pay ~~an~~ a non-refundable annual fee of $10 for each vehicle registration sticker under this section.

(4) ACTION ON REGISTRATION APPLICATION. The department shall grant or deny an application under sub. (2) within 30 business days after the department receives a complete application or, if a person submits the application with a license application under s. ATCP 12.02, 12.03 or 12.04, by the license action deadline. The department shall issue a 2-part registration sticker for each registered vehicle. ~~The department shall issue a registration sticker in 2 parts, each of which shall contain the same unique registration number and the year of issuance.~~ Each part of the 2-part registration sticker shall identify the registration year for which the 2-part registration sticker is issued.

SECTION 93m. ATCP 12.045(3)(a), as affected by CR 07-061 effective July 1, 2009, is amended to read:

ATCP 12.045(3)(a) A person shall pay ~~an~~ a non-refundable annual fee of $20 for each vehicle registration sticker under this section.

SECTION 94. ATCP 12.05(4) is amended to read:

ATCP 12.05(4) IDENTIFICATION OF SHEEP. Whenever an animal dealer or animal market operator receives any sheep, the animal dealer or ~~[animal]~~ animal market operator shall immediately record the official individual identification of that sheep, if any. If a sheep has no official individual identification when received by an animal dealer or animal market operator, the animal dealer or animal market operator shall immediately identify that sheep with an official individual identification if that identification is required under s. ATCP 10.70.

SECTION 95. ATCP 12.05(6) is created to read:

ATCP 12.05(6) IDENTIFICATION OF GOATS. Whenever an animal dealer or animal market operator receives any goats, the animal dealer or market operator shall immediately record the official individual identification of that goat, if any. If a goat has no official individual identification when received by an animal dealer or market operator, the animal dealer or market operator shall immediately identify that goat with an official individual identification if that identification is required under s. ATCP 10.77.

SECTION 96. ATCP 12.06(1)(bc) is amended to read:

ATCP 12.06(1)(bc) The livestock premises code, if any, of the premises from which the animal was received and the livestock premises code, if any, of the premises to which the animal is shipped or delivered.

SECTION 97. ATCP 12.08(6) is amended to read:

ATCP 12.08(6) Fail to provide, within 10 days following the receipt of a written request from the department, any relevant report or document relating to the transportation of animals or

any official individual identification of an animal purchased, sold or transported. The department may extend the compliance deadline under this subsection for good cause shown.

SECTION 98. ATCP 17.01(8) and (28) are amended to read:

ATCP 17.01(8) "Bovine animal" means beef cattle, dairy cattle, or American bison of any age or sex.

(28) "Poultry" means domesticated fowl commonly used for human food, including domesticated chickens, turkeys, geese, ducks, guinea fowl ~~and~~, squab, ratites and captive game birds. ~~"Poultry" does not include ratites or captive game birds.~~

SECTION 99. ATCP 17.02(1) and (note) are amended to read:

ATCP 17.02(1) GENERAL. A person may not keep livestock at a location in this state unless that location is registered under this section. There is no fee to register. A registration expires on the third December 31 ~~of each year, except as otherwise provided in sub (2)(c)~~ after it is issued.

NOTE: Once a person completes an initial registration, subsequent ~~annual~~ registrations will be relatively simple. The department will send the registrant a renewal application form (or directions on how to renew on-line) ~~each year~~ prior to the renewal deadline. The renewal transaction may be conducted by mail, online or by e-mail if an e-mail address has been provided. The renewal application form will include pre-printed information obtained from the last previous ~~year's~~ registration. The registrant may renew the registration by returning the pre-printed form with corrections, if any. There is no fee for an initial or renewal registration.

SECTION 100. ATCP 17.02(2)(a)(note) is amended to read:

NOTE: For example, if *Person A* feeds and cares for livestock owned by *Person B*, on premises owned by *Person C*, any one of those persons may register the premises (the others need not). ~~But operators identified in par. (c) must register the premises that they operate, and may not delegate their registration responsibilities to others.~~

SECTION 101. ATCP 17.02(2)(b) is amended to read:

ATCP 17.02(2)(b) A person may not register a premises that is currently registered by another person. The department may transfer a current registration from the current registrant to another person if the department finds that the other person is ~~required to register the premises under par. (c)~~ licensed to operate the premises under other applicable law, is more directly engaged in operating the premises, or can provide more definitive knowledge of livestock movements to and from the premises. The department shall notify the current registrant and give the current registrant a chance to comment before transferring a registration to another person.

SECTION 102. ATCP 17.02(2)(c) is repealed and recreated to read:

ATCP 17.02(2)(c) If a person keeps livestock at any location as part of an operation for which that person is required to hold another license, registration or permit from the department, that person may register that location as part of the person's initial application for that other license, registration or permit.

SECTION 103. ATCP 17.02(2)(c)(note) is created to read:

NOTE: For example, if a person holds or is required to hold a dairy farm license under s. ATCP 60.02(2), a deer farm registration under s. ATCP 10.46(1), a fish farm registration under s. ATCP 10.61(1), an animal market license under s. ATCP 12.02, an animal dealer license under s. ATCP 12.03, an animal trucker license under s. ATCP 12.04, a meat establishment license under s. ATCP 55.03(1), an equine quarantine station permit under s. ATCP 10.37(3), or a rendering establishment or other license under s. 95.72, Stats., that person may register each related livestock premises location as part of the person's initial application for that other license, registration or permit. Subsequent license renewal applications must include the livestock premises registration number assigned under this chapter.

SECTION 104. ATCP 17.02(4)(bm) is created to read:

ATCP17.02(4)(bm) The registrant's county.

SECTION 105. ATCP 17.02(4)(d) is amended to read:

ATCP 17.02 (4)(d) The address of the primary premises location, including county.

SECTION 106. ATCP 17.02(4)(h)1. and 8. to 10. are repealed and recreated to read:

ATCP 17.02(4)(h)1. Bovine animals. The registrant shall indicate whether the bovine animals are beef cattle, dairy cattle or bison.

8. Llamas, alpacas or other camelids.

9. Fish.

10. Other. The registrant shall specify the type or types of livestock.

SECTION 107. ATCP 17.02(4)(h)11. and 12. are repealed.

SECTION 108. ATCP 17.02(5)(d) is amended to read:

ATCP 17.02(5)(d) If a person submits a registration application under sub. (2)(c) as part of that person's application for another license, permit or registration ~~identified in sub. (2)(c)~~, the department shall grant or deny the registration application within the time period prescribed for department action on the other license, permit or registration application. The denial, suspension or revocation of another license, permit or registration does not affect a premises registration under this section.

SECTION 109. ATCP 17.02(6)(a) is amended to read:

ATCP 17.02(6)(a) Whenever the department grants a registration application under sub. (3), the department shall immediately issue ~~an annual~~ a registration certificate to the registrant. The registration certificate shall bear an expiration date that complies with sub. (1). The department shall issue the registration certificate in hard-copy or printable electronic form, depending on the method of registration.

SECTION 110. EFFECTIVE DATES.

1 (1) Except as provided in subs. (2) to (4), this rule takes effect on the first day of the
2 month following publication in the Wisconsin administrative register, as provided under s.
3 227.22(2)(intro.).
4 (2) The treatment of s. ATCP 10.22(9)(b) by SECTION 17m of this rule takes effect on July 1,
5 2009.
6 (3) The treatment of s. ATCP 10.46(7)(b) and (c) by SECTION 28m of this rule takes effect on
7 July 1, 2009.
8 (4) The treatment of s. ATCP 12.045(3)(a) by SECTION 93m of this rule takes effect on July 1,
9 2009.
10 **SECTION 111. INITIAL APPLICABILITY.** The treatment of s. ATCP 10.46(3) by this rule
11 first applies to registration certificates issued for the first registration year beginning on or after
12 the effective date of this rule.

Dated this _____ day of October, 2008.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen, Secretary