

Chapter ATCP 10

ANIMAL DISEASES

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Note: Chapter Ag 10 as it existed on December 31, 1990 was repealed and a new ch. Ag 10 was created effective January 1, 1991; Chapter Ag 10 was renumbered ch. ATCP 10 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Subchapter I — Definitions

ATCP 10.01 Definitions. As used in this chapter:

(1) "Accredited tuberculosis-free herd" means a herd of bovine animals, cervids or goats which is certified as tuberculosis-free by one of the following:

- (a) The department under s. ATCP 10.17, 10.63 or 10.82.
- (b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.17, 10.63 or 10.82.

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

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

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

(6) "Bison" means American bison of any age or sex, commonly known as buffalo.

(7) "Boar" means an uncastrated male swine that is sexually mature.

(8) "Bovine animal" means domestic cattle (*Bos Taurus*) and American bison of any age or sex.

(9) "Brucellosis" means the contagious, infectious and communicable disease caused by bacteria of the genus *Brucella*.

Note: Brucellosis is also known as Bang's disease, undulant fever, and contagious abortion.

(9m) "Brucellosis monitored herd" means a herd of cervids that is certified as a brucellosis monitored herd by one of the following:

- (a) The department under s. ATCP 10.65.
- (b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.65.

(10) "Brucellosis test" means a test, approved by the federal bureau and the department, that is used to determine whether an animal is infected with brucellosis.

(11) "Bull" means an uncastrated sexually mature male bovine animal.

(12) "Calf" means a sexually immature bovine animal of either sex.

(13) "Cattle" means any of the various animals of the domesticated genus *Bos*.

(14) "Certificate of veterinary inspection" means a written certificate prepared in compliance with s. ATCP 11.02.

(14m) "Certified brucella-ovis free flock" means a flock of sheep that is certified as brucella-ovis free by one of the following:

- (a) The department under s. ATCP 10.84.
- (b) The authorized animal health agency in the state where the flock is located, under standards comparable to s. ATCP 10.84.

(15) "Certified brucellosis-free herd" means a herd of cattle, cervids or goats that is certified as brucellosis-free by one of the following:

- (a) The department under s. ATCP 10.14, 10.65 or 10.81.
- (b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.14, 10.65 or 10.81.

(15m) “Cervid” means a member of the family of animals that includes deer, elk, moose, caribou, reindeer and the subfamily musk deer. “Cervid” includes all farm-raised deer.

(15r) “Chronic wasting disease registration tag” means an eartag, used to identify a cervid, which includes all the following:

(a) A premises identification number assigned by the department.

(b) A number that uniquely identifies the cervid.

(16) “Commingled” means kept or brought in contact with other animals in any environment which permits direct physical contact between the animals.

(17) “Communicable” means transmissible either directly or indirectly.

(18) “Contagious” means spread by contact, body secretions or fomites.

(19) “Cow” means a female bovine animal after first calving.

(20) “Department” means the state of Wisconsin department of agriculture, trade and consumer protection.

(20m) “Equine animal” has the meaning given in s. 95.68 (1) (am), Stats.

(20p) “Equine infectious anemia,” otherwise known as EIA or swamp fever, means the contagious and infectious disease of equine animals caused by a non-oncogenic retrovirus.

(20q) “Equine infectious anemia test” means a test approved by the department, and conducted at a laboratory approved by the department or the federal bureau, to determine whether an animal is infected with equine infectious anemia.

(21) “Exotic disease” means any communicable, contagious or infectious disease of livestock or poultry not known to exist in Wisconsin.

(22) “Exposed” means subjected to a causative agent which may cause the exposed animal to contract a contagious, infectious or communicable disease.

(22m) “Farm-raised deer” has the meaning given in s. 95.001 (1) (ag), Stats., but does not include cervids kept by an institution accredited by the American association of zoological parks and aquariums.

(22r) “Farm-raised game bird” has the meaning given in s. 169.01 (12m), Stats.

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

(24) “Feeder cattle” means bovine animals, kept for the sole purpose of feeding prior to slaughter, which are not more than 18 months old as evidenced by the absence of permanent teeth, and whose sexual status is one of the following:

(a) Non-spayed female that is not parturient or post-parturient.

(b) Spayed heifer.

(c) Steer.

(25) “Feeder swine” means swine that weigh 80 pounds or less and are kept for the sole purpose of feeding for slaughter.

(25m) “Feeder swine pseudorabies monitored herd” means a herd of swine that is certified as a feeder swine pseudorabies monitored herd by one of the following:

(a) The department under s. ATCP 10.34.

(b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.34.

(26) “Flock” as applied to poultry means all poultry on a farm, except that the department may designate as a separate “flock” any group of poultry that has not been allowed to commingle with other poultry on a farm for at least 21 days.

(26m) “Flock” as applied to sheep means one of the following:

(a) A commonly owned or controlled group of sheep that are maintained on common ground.

(b) Two or more commonly owned or controlled groups of sheep that are maintained at geographically separate locations, if animals or people move between the locations without exercising appropriate bio-security measures.

(27) “Fomite” means an inanimate object or substance which serves to transfer infectious organisms from one animal to another.

(28) “Foreign disease” means any communicable, contagious or infectious disease of livestock and poultry not known to exist in the United States.

(29) “Hatchery” means premises used to hatch poultry or ratites. “Hatchery” includes buildings, incubators, hatchers and auxiliary equipment.

(30) “Heifer” means a female bovine animal up to first calving.

(31) “Herd” means any of the following:

(a) A commonly owned or controlled group of animals that are maintained on common ground.

(b) Two or more commonly owned or controlled groups of animals that are maintained at geographically separate locations, if an interchange occurs between the locations without exercising appropriate bio-security measures.

(32) “Individual herd plan” means a written herd management and testing plan that is designed by the department to control and eradicate an infectious, contagious or communicable disease from an affected herd.

(33) “Infectious” means caused by a pathogenic agent.

(36) “Keep farm-raised deer” means to own, rent, lease or serve as the custodian of farm-raised deer.

(37) “Keeper of farm-raised deer” means a person who keeps farm-raised deer.

(38) “Livestock” means farm animals including bovine animals, sheep, goats, swine other than wild hogs, farm-raised deer and equine animals.

(40) “Mycoplasmosis” means a disease of poultry caused by bacteria of the genus *Mycoplasma*.

(41) “National poultry improvement plan” means the national poultry improvement plan and auxiliary provisions dated February, 2004, established by the federal bureau under 9 CFR 145.

Note: The national poultry improvement plan is on file with the department, the secretary of state and the revisor of statutes. The department will provide free copies to Wisconsin flock owners upon request. A flock owner may request a copy by calling (608) 224-4903, by visiting the Wisconsin state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(42) “Negative” means an official diagnostic test result which discloses no evidence of disease.

(43) “Official back tag” means an identification back tag, approved by the federal bureau or the department, that conforms to the national uniform backtagging system.

Note: Examples of official back tags include the official Wisconsin bovine back tag and the official Wisconsin swine back tag.

(44) “Official eartag” means an identification eartag, approved by the federal bureau or the department, that conforms to the national uniform eartagging system.

Note: An official eartag uniquely identifies each individual animal with no duplication of the alpha-numeric identification, regardless of the materials or colors used. Examples of official eartags include the official Wisconsin identification tag, the official U.S.D.A. Wisconsin vaccination tag, and the official Wisconsin swine eartag.

(45) “Official individual identification” means a set of identifying characters which is uniquely associated with an individual animal, and which consists of one of the following:

(a) The animal’s official eartag number.

(b) The animal’s breed association tattoo.

(c) The animal’s breed association registration number.

(d) A registration freeze brand number which uniquely identifies the animal.

(e) The official breed registration lip tattoo number of an equine animal which uniquely identifies that equine animal.

(f) A written or graphic description of an equine animal, prepared by a licensed and accredited veterinarian, which uniquely identifies that equine animal and includes all of the following:

1. A complete and accurate description of the equine animal's breed, coloration and distinguishing markings.

2. The equine animal's sexual status.

(g) A microchip number if all the following apply:

1. The microchip number uniquely identifies the animal.

2. The microchip is attached to the animal.

3. The person having custody of the animal has a microchip reader that can read the microchip number.

(h) The leg band number of a ratite which uniquely identifies that ratite.

(he) A poultry leg band or wing band bearing a number that uniquely identifies a bird.

(i) For a swine weighing 80 pounds or less, the premises identification of the premises of origin.

(j) A chronic wasting disease registration tag.

(k) A premises tattoo for a farm-raised deer, provided the farm-raised deer also has a unique individual identification number.

(L) A tattoo number issued by the department.

(m) A unique premises identification issued by the department, provided that the animal also bears a unique individual identification number.

(n) Other identification approved by the department.

(46) "Official spayed heifer" means a female bovine animal which has had its ovaries removed and is identified by an open spade brand or spay certificate.

(47) "Official vaccinate" means a female bovine animal which is vaccinated against brucellosis, and identified and reported as a vaccinate, in compliance with s. ATCP 10.10 or comparable laws of another state.

(48) "Originates from a herd" or "originating from a herd" means coming from a herd, other than a group of animals temporarily assembled for sale or shipment, in which the animal was born or kept since birth, or in which the animal was kept for at least 120 days.

(48m) "Originates from a state" or "originating from a state" means coming directly from one of the following:

(a) A state in which the animal was born and kept since birth.

(b) A state to which the animal was moved from a state holding an equal or better federal classification for the disease in question.

(c) A state in which the animal has been kept for at least 120 days.

(49) "Paratuberculosis" means the infectious and communicable disease of domestic ruminants, commonly known as Johne's disease, which is caused by *Mycobacterium paratuberculosis*.

(55) "Person" means an individual, corporation, partnership, association, limited liability company, trust, governmental entity, or other organization or entity.

(55m) "Pet bird" has the meaning given in s. 169.01 (25m), Stats.

(56) "Poultry" means domesticated fowl, including chickens, turkeys and waterfowl, which are bred for the primary purpose of producing eggs or meat. "Poultry" does not include ratites.

(57) "Pseudorabies" means the contagious, infectious, and communicable disease of livestock and other animals which is caused by the pseudorabies herpes virus, and which is also known as Aujeszky's disease, mad itch, or infectious bulbo-paralysis.

(58) "Pseudorabies test" means the negative serum neutralization (SN) test or another pseudorabies diagnostic test which is approved by the department and conducted at a laboratory approved by the department or the federal bureau.

(59) "Pullorum" means a disease of poultry caused by *Salmonella pullorum*.

(59m) "Qualified pseudorabies negative grow-out herd" means a grow-out herd of swine that is certified by one of the following:

(a) The department under s. ATCP 10.33.

(b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.33.

(60) "Qualified pseudorabies negative herd" means a herd of swine that is certified by one of the following:

(a) The department under s. ATCP 10.32.

(b) The authorized animal health agency in the state where the herd is located, under standards comparable to s. ATCP 10.32.

(60r) "Ratite" means a member of the group of flightless birds that includes the ostrich, emu, cassowary, kiwi and rhea.

(61) "Reactor" means an animal which has reacted positively in a conclusive diagnostic test for an infectious, contagious or communicable disease.

(62) "Slaughtering establishment" means a slaughtering establishment which is licensed by the department, or subject to inspection by the United States department of agriculture. "Slaughtering establishment" includes all premises used in connection with a slaughter operation.

(63) "Sow" means a sexually mature female swine.

(64) "State veterinarian" means the administrator of the animal health division of the department, or a veterinarian who is authorized by the administrator to act on his or her behalf.

(65) "Steer" means a castrated male bovine animal.

(67) "Suspect" means an animal which is suspected of having a disease, based on test results or other reliable information, but which is not yet confirmed to have the disease.

(68) "Swine" means a domestic hog or any variety of wild hog.

(69) "Tuberculosis" means the contagious, infectious and communicable disease caused by *Mycobacterium bovis*.

(69m) "Tuberculosis monitored herd" means a herd of cervids that is certified as a tuberculosis monitored herd by one of the following:

(a) The department under s. ATCP 10.63.

(b) The authorized animal health agency of the state in which the herd is located, using standards comparable to s. ATCP 10.63.

(69r) "Tuberculosis qualified herd" means a herd of cervids that is certified as a tuberculosis qualified herd by one of the following:

(a) The department under s. ATCP 10.63.

(b) The authorized animal health agency of the state in which the herd is located, under standards comparable to s. ATCP 10.63.

(70) "Tuberculosis test" means a test, approved by the department, which is used to detect tuberculosis in animals. "Tuberculosis test" includes any of the following tests when authorized or required under this chapter:

(a) A caudal fold tuberculin test or a comparative cervical tuberculin test for bovine animals.

(b) A single cervical tuberculin test or a comparative cervical tuberculin test for cervids.

(71) "Typhoid" or "fowl typhoid" means a disease of poultry caused by *Salmonella gallinarum*.

(71m) "USDA" means the United States department of agriculture.

(72) "Validated brucellosis-free herd" means a herd of swine that is certified as brucellosis-free by one of the following:

(a) The department under s. ATCP 10.36.

(b) The authorized animal health agency of the state where the herd is located, under standards comparable to s. ATCP 10.36.

(73) "Veal calf" means a bovine animal of either sex, not more than 120 days old, which is kept for the sole purpose of feeding prior to slaughter for veal.

(73m) “Wild animal” has the meaning given in s. 95.68 (1) (g), Stats. “Wild animal” does not include a domestic animal identified in s. ATCP 10.07.

(74) “Wisconsin certified veterinarian” means a veterinarian certified under s. ATCP 10.05.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; emerg. cr. (15j), (15m), (17m) and (61m), eff. 3-18-91; am. (54), Register, June, 1991, No. 426, eff. 7-1-91; cr. (15j), (15m), (17m) and (61m), Register, November, 1991, No. 431, eff. 12-1-91; r. and recr. (48), cr. (48m), (60m) and (72m), Register, September, 1993, No. 453, eff. 10-1-93; cr. (20m), (20p) and (20q), Register, January, 1994, No. 457, eff. 2-1-94; renum. (45) (d) to be (45) (i), cr. (45) (d) to (h), (60r), am. (56), Register, March, 1995, No. 471, eff. 4-1-95; am. (1), (38), cr. (6m), (13m), (69m), (69r), r. and recr. (10), (17m), (61m), (70), r. (15j), (35) to (37), Register, February, 1996, No. 482, eff. 3-1-96; emerg. cr. (36), eff. 6-3-96; am. (15m), (38), cr. (22m), (36), (37), Register, December, 1996, No. 492, eff. 1-1-97; r. (50) to (54), Register, September, 1999, No. 525, eff. 7-1-00; am. (1) (intro.), (b), (14) to (16), (20m), (22m), (25), (29), (40), (43), (44), (45) (f) 2., (55), (60), (69m), (69r) and (72), r. (3) to (5), (6m), (13m), (17m), (34), (39), (60m), (61m), (66), (70) (c) and (72m), renum. (45) (i) to be (45) (j), cr. (14m), (25m), (26m), (45) (i), (59m), (71m) and (74), r. and recr. (26), (31) and (70) (b), Register, November, 2000, No. 539, eff. 12-1-00; corrections in (20m) and (22m) made under s. 13.93 (2m) (b) 7., Stats.; CR 02-054; am. (20) (q) and (31), cr. (45) (he) Register May 2003 No. 569, eff. 6-1-03; CR 02-078; am. (1) (a) and (b), (9m) (a) and (b), (14m) (a) and (b), (15) (a) and (b), (22m), (69m) (a) and (b) and (69r) (a) and (b), cr. (15r) and (45) (j) and (k), r. (45) (j) to be (45) (L) Register May 2003 No. 569, eff. 6-1-03; CR 03-121; am. (8), (38), (41), (56), cr. (22r), (45) (L) and (m), (55m), (73m), r. and recr. (45) (g), renum. (45) (L) to be (45) (n) Register September 2004 No. 585, eff. 10-1-04.

Subchapter II — General Provisions

ATCP 10.02 Reportable diseases; general. (1) DISEASES REPORTED WITHIN ONE DAY. A veterinarian, diagnostic laboratory, government agency or other person that diagnoses or finds evidence of any disease identified in *Appendix A* shall report that diagnosis or finding to the department, in the manner provided under sub. (3), within one day after making the diagnosis or finding.

(2) DISEASES REPORTED WITHIN 10 DAYS. A veterinarian, diagnostic laboratory, government agency or other person that diagnoses or finds evidence of any disease identified in *Appendix B* shall report that diagnosis or finding to the department, in the manner provided under sub. (3), within 10 days after making the diagnosis or finding.

(3) FORM OF REPORT. A veterinarian, diagnostic laboratory, government agency or other person may report under subs. (1) or (2) by telephone or any other effective means of communication. If a person reports other than in writing, the person shall confirm the report in writing within 10 days. A fax report is a written report under this section.

(4) EXEMPTION. This section does not require a veterinarian to report a diagnosis or finding made by the department or the Wisconsin department of health and family services.

(5) NOTICE TO THE DEPARTMENT OF NATURAL RESOURCES. If the department determines that a disease reported under sub. (1) or (2) may present a threat to wild animals in this state, the department shall notify the department of natural resources of the report contents.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr., Register, February, 1996, No. 482, eff. 3-1-96; emerg. cr. (2) (bm), (cm), (dm), (dr), and (ei), eff. 6-3-96; cr. (2) (bm), (cm), (dm), (dr), (i), Register, December, 1996, No. 492, eff. 1-1-97; am. (4), Register, May, 1999, No. 521, eff. 6-1-99; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00; CR 03-121; am. (1) to (3), cr. (5) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.025 Reportable diseases; fish. (1) REPORT REQUIRED. A person who diagnoses or finds evidence of any of the following diseases in this state shall report that diagnosis or finding to the department, in writing or by telefax, within 10 days after making the diagnosis or finding:

- (a) Any aquatic animal disease that is foreign or exotic to Wisconsin.
- (b) Channel catfish virus (CCV).
- (c) Enteric septicemia of catfish (ESC).
- (d) Infectious hematopoietic necrosis virus (IHN).
- (e) White sturgeon iridovirus (WSI).
- (f) Mycobacteriosis infection.
- (g) Proliferative kidney disease (PKD).

- (h) Streptococcus iniae.
- (i) Viral hemorrhagic septicemia (VHS).
- (j) Whirling disease (*Myxobolus cerebralis*, or WD).

(2) EXEMPTION. Subsection (1) does not require a person to report a diagnosis or finding made by the department or the Wisconsin department of health and family services.

(3) NOTICE TO THE DEPARTMENT OF NATURAL RESOURCES. If the department determines that a disease reported under sub. (1) may present a threat to fish in the waters of the state, the department shall notify the department of natural resources of the report contents.

History: Cr. Register, May, 1999, No. 521, eff. 6-1-99; CR 03-121; cr. (3) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.03 Disease testing; reports. (1) VETERINARIAN TO REPORT. (a) Whenever a veterinarian tests an animal for any of the following diseases, the veterinarian shall report the test results to the department within 10 days:

1. Anaplasmosis.
2. Brucellosis.
3. Paratuberculosis (Johne’s disease).
4. Pseudorabies.
5. Tuberculosis.

(b) A veterinarian is not required to report under par. (a) if the laboratory analyzing the test sample simultaneously reports the test result to the department and the veterinarian.

(2) SAMPLES AND REPORTS TO INCLUDE OFFICIAL INDIVIDUAL IDENTIFICATION. Every test sample and every test report submitted to the department under sub. (1) shall be identified with the official individual identification of the animal to which the sample or test report pertains. If the animal has no official individual identification, the veterinarian shall identify the animal.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. (1) (c), Register, February, 1996, No. 482, eff. 3-1-96; CR 02-054; r. and recr. (1) Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.04 State not a warrantor. Nothing in this chapter constitutes a warranty by the state of Wisconsin or the department that any animal is free of disease.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91.

ATCP 10.05 Wisconsin certified veterinarians. (1) AUTOMATIC CERTIFICATION. A veterinarian is automatically certified as a Wisconsin certified veterinarian, without any action by the department, if all the following apply:

- (a) The veterinarian is currently licensed under ch. 453, Stats., to practice veterinary medicine in this state.
- (b) The veterinarian is currently accredited by the federal bureau under 9 CFR 160 to 162.

(2) DECERTIFICATION. A veterinarian is no longer certified under sub. (1) if any of the following occurs:

- (a) The veterinarian is no longer licensed under ch. 453, Stats., to practice veterinary medicine. If the veterinarian’s license is temporarily suspended, the certification under sub. (1) is suspended for the period of the license suspension.
- (b) The veterinarian is no longer accredited by the federal bureau under 9 CFR 160 to 162. If the veterinarian’s federal accreditation is temporarily suspended, the certification under sub. (1) is suspended for the period of the accreditation suspension.

(c) The department suspends or revokes the certification for cause. The state veterinarian may, on behalf of the department, summarily suspend or revoke the certification of a veterinarian who violates applicable requirements under this chapter, ch. ATCP 11 or 12. The state veterinarian shall specify, in the order, the period of suspension or the requirements for reinstatement after revocation. A veterinarian may request a hearing before the department, pursuant to ch. 227, Stats. A request for hearing does not stay the summary suspension or revocation.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.06 Disease testing; owner to assist department. An owner or custodian of animals shall make those animals available to the department, at the department's request, for any disease testing that the department is authorized to perform on those animals. The owner or custodian shall restrain the animals, as necessary, to facilitate testing and protect the safety of the animal and the persons performing the testing.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.07 Domestic animals. The following animals are considered domestic animals under s. 169.01 (7), Stats., and are not considered wild animals:

- (1) Livestock.
- (2) Poultry.
- (3) Farm-raised game birds, except farm-raised game birds that have been released to the wild.
- (4) Ratites.
- (5) Farm-raised fish, except fish that have been released to waters of the state.
- (6) Foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit or caracul that are born, bred and raised in captivity and are not endangered or threatened species.
- (7) Pet birds.
- (8) Animals of any species that has been domesticated by humans.

History: CR 03-121: cr. Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.08 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 contagious or infectious disease identified in s. ATCP 10.02 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.

Note: See also ss. 169.04 (2) (d) and 169.06 (1) (d), Stats.

History: CR 03-121: cr. Register September 2004 No. 585, eff. 10-1-04.

Subchapter III — Bovine Disease

ATCP 10.10 Brucellosis; official vaccinates. A bovine animal does not qualify as an official brucellosis vaccinate unless all the following apply:

- (1) An accredited veterinarian vaccinates the animal in compliance with USDA brucellosis eradication uniform methods and rules dated February 1, 1998. If the animal is vaccinated in Wisconsin, the accredited veterinarian shall also be a Wisconsin certified veterinarian.
- (2) The veterinarian identifies the animal in compliance with the USDA brucellosis eradication uniform methods and rules dated February 1, 1998.
- (3) The veterinarian files a vaccination report with the department within 30 days after the veterinarian performs the vaccination. The veterinarian shall file the vaccination report on a form approved by the department, and shall include in the report the official individual identification of the vaccinated animal. The veterinarian shall provide a copy of the vaccination report to the owner of the vaccinated animal, and shall retain another copy.

Note: Copies of the USDA brucellosis eradication uniform methods and rules dated February 1, 1998 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:
Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (2) (b) 2., (3), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.11 Brucellosis testing. (1) WHO MAY TEST. A person collecting a brucellosis test sample under this chapter, ch. ATCP 11 or ch. ATCP 12 shall be one of the following:

(a) An accredited veterinarian. If the veterinarian collects the sample in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

(b) An authorized employee or agent of the department or the federal bureau.

(c) A person who collects samples at a slaughtering establishment under the supervision of the department or the federal bureau.

(2) **TEST PROCEDURE.** A brucellosis test shall comply with the USDA brucellosis eradication uniform methods and rules dated February 1, 1998.

(3) **VETERINARIAN TO REPORT.** A veterinarian who collects a brucellosis test sample from a bovine animal in this state shall do all the following:

(a) Report the test result to the department within 10 days after the veterinarian obtains the test result. The veterinarian shall immediately report any positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. This reporting requirement does not apply if the laboratory analyzing the test sample simultaneously reports the test result to the department and the veterinarian.

(b) Provide a copy of the laboratory test report to the animal owner.

(4) **REPORT FORM.** A veterinarian shall submit a brucellosis test report under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identification of the animal tested, and any other information required by the department. The veterinarian shall sign the report form. A report form may be used only for its intended purpose.

(5) **IDENTIFYING TESTED ANIMALS.** If a veterinarian collects a brucellosis test sample from a bovine animal that does not yet have an official individual identification, the veterinarian shall identify the animal with an official individual identification.

Note: See s. ATCP 11.10 regarding identification of bovine animals.

(6) **CLASSIFICATION.** Upon receiving a brucellosis test result, the department shall classify the tested animal as negative, suspect or reactor. The department may, in its discretion, use supplemental brucellosis tests to confirm test results, and to evaluate whether animals may be infected with brucellosis.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (2) (b), Register, March, 1995, No. 471, eff. 4-1-95; r. and recr. (1), (2), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-054: r. and recr. (3) Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.12 Brucellosis reactors. (1) ACTION REQUIRED. Within 15 days after the department classifies a bovine animal as a brucellosis reactor under s. ATCP 10.11 (6), the animal owner shall do all the following:

(a) Have the animal identified as a reactor and shipped to slaughter in compliance with USDA brucellosis eradication uniform methods and rules dated February 1, 1998.

(b) Clean and disinfect the premises where the animal was kept.

(2) **DEADLINE EXTENSION.** The department may, for good cause, extend a deadline under sub. (1). The department may not extend a deadline under sub. (1) (a) for more than 15 days.

Note: Copies of the USDA brucellosis eradication uniform methods and rules dated February 1, 1998 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.13 Brucellosis indemnity. An animal owner may request an indemnity under s. 95.26 (7), Stats., for a brucellosis reactor slaughtered under s. ATCP 10.12. The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the

department or the federal bureau. An animal owner does not qualify for an indemnity if the owner fails to comply with s. ATCP 10.12.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.14 Brucellosis-free herd; certification.

(1) **OBTAINING INITIAL CERTIFICATION.** The department may certify a herd of cattle as a brucellosis-free herd if the herd qualifies under the USDA brucellosis eradication uniform methods and rules dated February 1, 1998.

(2) **MAINTAINING CERTIFICATION.** To maintain a brucellosis-free herd certification, a herd owner shall comply with applicable requirements under the USDA brucellosis eradication uniform methods and rules dated February 1, 1998.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke a brucellosis-free herd certification if any of the following occurs:

1. A brucellosis test shows that any animal in the herd is a brucellosis suspect or reactor.

2. The herd owner does not comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA brucellosis eradication uniform methods and rules dated February 1, 1998 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1) (b), (5) (b), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.15 Tuberculosis testing. (1) WHO MAY TEST.

A person performing a tuberculosis test under this chapter, ch. ATCP 11 or ch. ATCP 12 shall be one of the following:

(a) An accredited veterinarian. If the veterinarian performs the test in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

(b) A veterinarian employed by the department or the federal bureau.

(c) A technician employed by the department or the federal bureau if the technician performs only routine screening tests under the direct supervision of a veterinarian employed by the department or the federal bureau.

(2) **TEST PROCEDURES.** A person who performs a tuberculosis test on a bovine animal in Wisconsin shall comply with applicable procedures in the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(3) **VETERINARIAN TO REPORT.** A veterinarian who performs or supervises a tuberculosis test on a bovine animal in Wisconsin shall report the test result to the department within 10 days after the veterinarian observes the result. A veterinarian shall immediately report a positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. A veterinarian shall provide a copy of every test report to the animal owner.

Note: See also ss. ATCP 10.02 and 10.03.

(4) **REPORT FORM.** A veterinarian shall report a tuberculosis test result under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identification of the animal tested, and any other information required by the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999. The veterinarian shall sign the report form. A report form may be used only for its intended purpose.

(5) **IDENTIFYING TESTED ANIMALS.** If a veterinarian performs or supervises a tuberculosis test on a bovine animal that does not yet have an official individual identification, the veterinarian shall identify the animal with an official individual identification.

Note: See s. ATCP 11.10 regarding identification of bovine animals.

(6) **TEST POSITIVE ANIMAL; MOVEMENT RESTRICTED.** No person may sell or move a bovine animal that tests positive on any tuberculosis test until one of the following occurs:

(a) The department determines that the animal is not a tuberculosis suspect or reactor.

(b) The animal is classified as a tuberculosis reactor and shipped to slaughter according to s. ATCP 10.16.

(7) **TEST POSITIVE ANIMAL; FURTHER TESTING AND CLASSIFICATION.** Whenever the department receives a positive tuberculosis test report under sub. (3), the department shall conduct follow-up testing to determine whether the animal is a tuberculosis suspect or reactor. The department shall test and classify animals according to the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. (1), (2), r. (4), Register, February, 1996, No. 482, eff. 3-1-96; cr. (4), Register, December, 1996, No. 492, eff. 1-1-97; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.16 Tuberculosis reactors. (1) ACTION

REQUIRED. Within 15 days after the department classifies a bovine animal as a tuberculosis reactor, the animal owner shall do all the following:

(a) Have the animal identified and shipped to slaughter in compliance with the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(b) Clean and disinfect the premises where the animal was kept.

(2) **DEADLINE EXTENSION.** The department may, for good cause, extend a deadline under sub. (1). The department may not extend a deadline under sub. (1) (a) for more than 15 days.

(3) **SLAUGHTERED ANIMALS.** (a) A tuberculosis reactor shall be slaughtered and inspected according to the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(b) If a tuberculosis suspect is slaughtered, it shall be slaughtered and inspected according to the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

Note: Copies of the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.17 Tuberculosis indemnity.

An animal owner may request an indemnity under s. 95.25 (5), Stats., for a slaughtered tuberculosis reactor. The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. An animal owner does not qualify for an indemnity if the owner fails to comply with s. ATCP 10.16.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), (2), (5) (c), (d) (intro.), r. and recr. (3), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.18 Tuberculosis-free herd; certification.

(1) **INITIAL CERTIFICATION.** The department may certify a herd of bovine animals as an accredited tuberculosis-free herd if the herd qualifies under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(2) **MAINTAINING CERTIFICATION.** To maintain a tuberculosis-free herd certification, a herd owner shall comply with applicable

requirements under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke a tuberculosis-free herd certification if any of the following occurs:

1. An animal in the herd tests positive for tuberculosis.
2. The herd owner does not comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.21 Johne's disease herd classification; disclosure. (1) DEFINITIONS. In this section:

(a) "Anniversary date" means, for any herd of cattle, one of the following:

1. The month and day on which samples are collected for the first annual herd test conducted after July 1, 2000, if no annual herd test was conducted within one year prior to that date. If the first annual herd test conducted after July 1, 2000, is a split herd test, the "anniversary date" is the month and day on which samples are collected from the last group of animals in the split herd test.

2. The month and day between July 1, 1999, and June 30, 2000, on which samples were collected for an annual herd test, if an annual herd test was conducted within that period.

(b) "Annual herd test" means an annual paratuberculosis test conducted on a herd of cattle under this section. An annual herd test includes a random herd test, a split herd test or a whole herd test.

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

(c) "Herd" means a herd of cattle.

(d) "Paratuberculosis" means the infectious and communicable disease of domestic ruminants, commonly known as Johne's disease, which is caused by *Mycobacterium paratuberculosis*.

(e) "Random herd test" means a paratuberculosis test performed under sub. (5) (b).

(f) "Split herd test" means a paratuberculosis test performed under sub. (5) (c).

(g) "Test eligible animals" means all the following:

1. All cattle, other than bulls, that are 36 months of age or older.

2. All bulls that are 24 months of age or older.

(h) "Whole herd test" means a paratuberculosis test performed under sub. (5) (a).

(1m) **IMPLIED WARRANTY.** Section 95.195, Stats., covers paratuberculosis in cattle and applies to sales of cattle.

(2) **EXEMPTION FROM IMPLIED WARRANTY.** (a) The implied warranty under s. 95.195, Stats., does not apply to a sale of cattle if the seller discloses all the following to the buyer in writing, prior to sale:

1. The current herd classification, under sub. (3), of the herd from which the cattle are being sold.

2. That the cattle are paratuberculosis reactors under sub. (9), if that is the case.

(b) The implied warranty under s. 95.195, Stats., does not apply to cattle sold directly to slaughter or as feeder cattle.

(3) **HERD CLASSIFICATION.** (a) *Johne's preventive management level A.* The department shall classify a herd as "Johne's preventive management level A" if an annual herd test reveals no paratuberculosis reactors.

Note: Animals from a herd classified "Johne's preventive management level A" normally have the lowest risk of transmitting Johne's disease (paratuberculosis). The risk is normally reduced with each additional year that the herd maintains the level A classification. However, no herd classification ensures that an animal is free of Johne's disease.

The department may certify a herd as a voluntary participant in the national Johne's disease program if the herd is classified under par. (a) as "Johne's preventive management level A." To participate in the national program, a herd owner must enter into a certification contract with the department. In establishing the terms of the contract, the department will be guided by the "U.S. Voluntary Johne's Disease Herd Status Program for Cattle." For more information, contact the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Animal Health Division
P.O. Box 8911
Madison, WI 53708-8911
Phone: (608) 224-4872

(b) *Johne's preventive management level B.* The department shall classify a herd as "Johne's preventive management level B" if fewer than 5% of the animals tested in an annual whole herd test or split herd test, or in a follow-up whole herd test under par. (d) 1., are paratuberculosis reactors.

(c) *Johne's preventive management level C.* The department shall classify a herd as "Johne's preventive management level C" if at least 5% but not more than 15% of the animals tested in an annual whole herd test or split herd test, or in a follow-up whole herd test under par. (d) 1., are paratuberculosis reactors.

(d) *Johne's preventive management level D.* The department shall classify a herd as "Johne's preventive management level D" if any of the following apply:

1. A random herd test reveals one or more paratuberculosis reactors, unless the department reclassifies the herd under par. (b) or (c) based on a follow-up whole herd test.

2. More than 15% of the animals tested in a whole herd test or a split herd test are paratuberculosis reactors.

(e) *Maximum risk for Johne's disease.* Every herd in this state, and every herd from which cattle are sold in this state, is automatically classified "maximum risk for Johne's disease" unless one of the following applies:

1. The department classifies that herd under pars. (a) to (d). If the owner of the classified herd fails to complete an annual herd test within the time required under sub. (5), that classification expires and the herd is automatically classified "maximum risk for Johne's disease" until the department reclassifies the herd under pars. (a) to (d).

2. The department has classified that herd within one year prior to July 1, 2000. If the owner of the classified herd fails to complete an annual herd test within the time required under sub. (5), the classification expires and the herd is automatically classified "maximum risk for Johne's disease" until the department reclassifies the herd under pars. (a) to (d).

Note: The herd classifications under pars. (a) to (e) are arranged from most desirable (a) to least desirable (e). "Maximum risk for Johne's disease" is the least desirable herd classification, because it signifies that the herd owner does not have an annual paratuberculosis testing program. A person buying cattle from such a herd faces an unknown, but substantial, risk that the cattle are infected with Johne's disease.

(f) *Classification to include year.* A herd classification under pars. (a) to (d) shall indicate the first year from which the herd has continuously held that classification.

(4) **COMMINGLED CATTLE; CLASSIFICATION.** (a) Except as provided in par. (c) cattle added to a herd from a herd with a less desirable classification under sub. (3) retain that less desirable herd classification for 120 days after being added but do not affect the classification of the herd to which they are added.

(b) Cattle added to a herd from a herd with a more desirable classification are immediately reclassified to the less desirable classification of the herd to which they are added.

(c) If cattle from herds with different classifications under sub. (3) are temporarily assembled for sale or shipment, the least desirable classification assigned to any of those source herds automatically applies to the temporarily assembled herd.

(d) Cattle from herds classified as "Johne's preventive management level A," "Johne's preventive management level B," "Johne's preventive management level C," or "Johne's preventive management level D" that are sent by their owners to a consignment sale do not constitute a temporarily assembled herd under par. (c), except that animals which are allowed to have direct contact with each other for more than 24 hours constitute a temporarily assembled herd.

(5) **ANNUAL HERD TEST.** An annual herd test may be any of the following:

(a) *Whole herd test.* A whole herd test is performed on all test eligible animals in the herd. All samples for a whole herd test shall be collected on the same day or on consecutive days. Samples shall be collected on the anniversary date under sub. (1) (a), or within 2 months before or after that date.

(b) *Random herd test.* A random herd test is performed on a group of test eligible animals randomly selected from the test herd by the person who collects the test samples under sub. (6). The randomly selected group shall include at least 30 test eligible animals, or at least 10% of the test eligible animals in the herd, whichever group is larger. All samples for a random herd test shall be collected on the same day. Samples shall be collected on the anniversary date under sub. (1) (a), or within 2 months before or after that date.

Note: A herd with less than 30 test eligible animals is not eligible for a random herd test. The department may not classify a herd as "Johne's preventive management level B" or "Johne's preventive management level C" based on a random herd test. If a random herd test reveals one or more reactor animals, the herd is classified as "Johne's preventive management level D" until the herd owner completes a follow-up whole herd test. See sub. (3) (d) 1.

(c) *Split herd test.* A split herd test is performed, over the course of not more than 12 months, on all test eligible animals in a herd. A split herd test shall comply with all the following requirements:

1. The department shall approve a herd testing plan before any animals are tested. The department shall grant or deny approval, in writing, within 30 days after the herd owner submits a proposed testing plan to the department.

2. All testing shall be completed according to the plan approved by the department.

3. All test eligible animals in the herd shall be tested at least once during the 12 month period ending on the herd's anniversary date.

(6) **COLLECTING TEST SAMPLES.** Annual herd test samples shall be collected by a certified veterinarian, or by an employee of the department or the federal bureau. The person who collects an annual herd test sample shall do all the following:

(a) Determine the animals to be tested under sub. (5).
(b) Determine the type of test to be performed under sub. (7).
(c) Collect an appropriate sample from each test animal, based on the type of test to be performed under sub. (7).

(d) Identify each sample with the official individual identification of the animal from which it was collected, and the date on which it was collected.

(e) Transmit the test samples to the laboratory testing those samples under sub. (7).

Note: A herd owner may have cattle tested for Johne's disease at any time. The department will not use the test results to classify the tested herd under this section unless the test complies with this section and the herd owner asks the department to classify the herd.

This rule does not prohibit a person from collecting test samples from animals that are too young to be "test eligible" under ATCP 10.21 (1) (g), but the department will not consider test results from those animals when determining the appropriate herd classification. To facilitate review of results, the person collecting test

samples should separate "test eligible" from "non-test eligible" samples, and should prepare separate test submission forms for each category.

(7) **LABORATORY TESTING.** Annual herd test samples shall be tested by the department, the federal bureau, or a laboratory approved by the department or the federal bureau. The laboratory shall use one of the following tests:

(a) The enzyme linked immunosorbent assay (ELISA).

(b) The fecal culture test.

(c) Another test approved by the department.

(8) **TEST RESULTS.** A laboratory performing tests under sub. (7) shall report the test results to the department within 10 days. If the herd owner asks the department to classify a herd based on the results of an annual herd test, the department shall classify the herd under sub. (3) within 30 days after it receives both the test results and the herd owner's request. The department shall issue a classification notice under sub. (10) to the herd owner.

Note: Under s. ATCP 10.02 and 10.03, a veterinarian or laboratory that diagnoses or finds evidence of Johne's disease must report that diagnosis or finding to the department within 10 days, in writing or by telefax.

(9) **PARATUBERCULOSIS REACTORS.** An animal is a paratuberculosis reactor if any of the following apply:

(a) The animal tests positive on the enzyme linked immunosorbent assay (ELISA), unless it subsequently tests negative on the fecal culture test.

(b) The animal tests positive on the fecal culture test.

(c) The animal tests positive on any other test which the department approves and deems conclusive.

(10) **NOTICE TO HERD OWNER.** Whenever the department classifies a herd under sub. (3) based on an annual herd test, or based on a follow-up whole herd test under sub. (3) (d) 1., the department shall promptly provide the herd owner with all the following information in writing:

(a) *Individual animal test results.* Individual test results for each animal included in the herd test. Test results shall be identified with each animal's official individual identification.

(b) *Herd classification.* The herd classification under sub. (3). The classification notice shall include the effective date and expiration date of the classification. A classification takes effect on the effective date specified in the notice, and supersedes any prior classification.

(c) *Eligibility for reimbursement.* Notice that the herd owner may apply for reimbursement of testing costs, according to sub. (15).

(11) **REACTOR IDENTIFICATION.** (a) No person may move a paratuberculosis reactor under sub. (9) unless a certified veterinarian first identifies that reactor with a permanent paratuberculosis reactor identification approved by the department.

(b) No person may sell a paratuberculosis reactor under sub. (9) unless both of the following apply:

1. A certified veterinarian first identifies that reactor with a permanent paratuberculosis reactor identification approved by the department.

2. The seller first discloses to the prospective buyer, in writing, that the animal is a paratuberculosis reactor unless the reactor is sold directly to slaughter or as a feeder animal.

(c) Within 45 days after an animal is determined to be a reactor under sub. (9) (a) or (c), a certified veterinarian shall do one of the following:

1. Identify the reactor with a permanent paratuberculosis reactor identification approved by the department.

2. Collect a sample from that animal for a fecal culture test.

(d) Within 30 days after an animal tests positive for paratuberculosis on a fecal culture test, a certified veterinarian shall identify the reactor with a paratuberculosis reactor identification approved by the department.

(12) **HERD VACCINATION.** No person may vaccinate cattle for paratuberculosis except under a herd agreement with the department. The department may not authorize vaccination in any herd in which the percentage of reactors in the last whole herd test or

split herd test was less than 7%, unless special circumstances warrant vaccination in that herd.

(13) MISREPRESENTING HERD CLASSIFICATION. No seller may misrepresent the classification, under sub. (3), of the herd from which cattle are being sold. A seller who misrepresents a herd classification is not exempt from the implied warranty under s. 95.195, Stats., and is subject to possible penalties under s. 95.99, Stats.

(14) DEPARTMENT DISCLOSURE OF HERD CLASSIFICATION. The department may disclose a herd classification under sub. (3) with the written authorization of the herd owner.

Note: See s. 95.232, Stats.

(15) REIMBURSEMENT OF ANNUAL HERD TEST COSTS. (a) *Eligibility.* A herd owner who asks the department to classify a herd under sub. (3) based on an annual herd test performed under sub. (5) may apply for reimbursement of laboratory testing costs under sub. (7).

(b) *Filing a reimbursement claim.* A herd owner shall file a reimbursement claim under par. (a) on a form provided by the department. The herd owner shall submit copies of bills from the veterinarian or laboratory that establish the amount of laboratory test costs that the herd owner incurred.

(bm) *Payments authorized; priority.* Subject to the availability of funds, the department shall reimburse claims filed under par. (b) as follows:

1. The department shall reimburse valid claims filed on or before February 1 of the year following the year in which the claimant's herd is tested and classified. If the sum of all claims filed by that February 1 exceeds the balance in the appropriation account on that date, the department shall reimburse those claims pro-rata, based on the amount of each valid claim.

2. If funds remain in the appropriation account following the payments under subd. 1., the department shall reimburse valid claims filed after February 1 but on or before April 30 of the year following the year in which the claimant's herd is tested and classified. The department shall pay the claims under this subdivision in the order that the department receives the claims.

3. The department shall not pay any claim filed after April 30 of the year following the year in which the herd is tested and classified.

(c) *Claims disallowed.* The department may disallow all or part of a claim under par. (b) if the department finds that the herd owner has misrepresented or falsified any part of a claim.

(d) *Reimbursement payments.* The department shall reimburse a herd owner's allowed claim by June 30 of the year following the year which the owner's herd was tested and classified. If allowed claims exceed available funding, the department shall pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, June, 1991, No. 426, eff. 7-1-91; r. and recr. Register, September, 1999, No. 525, eff. 7-1-00; emerg. cr. (1m), eff. 7-1-00; cr. (1) (br) and (1m), am. (6) (intro.), (11) (a), (b) 1., (c) (intro.) and (d), Register, November, 2000, No. 539, eff. 12-1-00; cr. (10) (c) and (15), Register, May, 2001, No. 545, eff. 6-1-01; CR 04-005; am. (11) (c) (intro.), r. and recr. (15) (b), cr. (15) (bm) Register October 2004 No. 586, eff. 11-1-04.

Subchapter IV — Swine Diseases

ATCP 10.30 Pseudorabies; vaccination and vaccine control. (1) **PERMIT.** No person may vaccinate swine for pseudorabies unless the owner of those swine holds a vaccination permit from the department. To obtain a permit, an owner of swine shall submit a written application to the department. The department may issue a vaccination permit for swine which have been infected with or exposed to pseudorabies, or which the department identifies as being at risk for pseudorabies. The department shall grant or deny an application for a vaccination permit within 5 business days after the department receives a complete application. The department may, in its discretion, require that a vaccination

performed under department permit be performed by a veterinarian licensed in this state.

(2) VACCINE LABEL. No person may sell, distribute or possess any pseudorabies vaccine in this state unless the vaccine container is labeled with the name and address of the vaccine manufacturer.

(3) REPORT OF SALES. Every person who sells or furnishes pseudorabies vaccine to a veterinarian in this state shall file a report with the department within 15 days after the vaccine is delivered to the veterinarian. The report shall specify the name and address of each recipient, the date of delivery and the amount of vaccine delivered.

(4) SALES RESTRICTED. (a) Except as provided under par. (b) or (c), no person may sell or furnish pseudorabies vaccine to a retail purchaser or user in this state, other than a veterinarian licensed in this state who is authorized to vaccinate swine on behalf of an owner who holds a vaccination permit under sub. (1). The number of doses of vaccine sold or furnished may not exceed the number of doses specified in the permit.

(b) The department may issue a permit authorizing a veterinarian licensed in this state to purchase pseudorabies vaccine for use in swine outside the state. The department shall grant or deny a permit application within 5 business days after the department receives a written application from a veterinarian licensed in this state. The veterinarian shall record, and file with the department on a monthly basis, the number of doses of vaccine purchased for use outside the state, the location of each herd on which the vaccine was used, and the name and address of the herd owner.

(c) Paragraph (a) does not prohibit a veterinarian from furnishing vaccine to a herd owner who holds a permit under sub. (1), provided that the veterinarian acquired the vaccine in compliance with par. (a).

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), r. and recr. (2), cr. (3) and (4), Register, September, 1993, No. 453, eff. 10-1-93; renum. from s. ATCP 10.32, Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.31 Pseudorabies testing and control.

(1) WHO MAY TEST. No person may collect a pseudorabies test sample from swine in this state unless that person is one of the following:

(a) A Wisconsin certified veterinarian.

(b) An authorized employee or agent of the department or the federal bureau.

(2) TEST PROCEDURE. A pseudorabies test shall comply with the USDA pseudorabies eradication state-federal-industry program standards dated January 1, 1999, and shall be submitted to a laboratory operated by or approved by the department or the federal bureau.

(3) VETERINARIAN TO REPORT. A veterinarian who collects a pseudorabies test sample from swine in this state shall do all the following:

(a) Report the test result to the department within 10 days after the veterinarian obtains the test result. The veterinarian shall immediately report any positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. This reporting requirement does not apply if the laboratory analyzing the test sample simultaneously reports the test result to the department and the veterinarian.

(b) Provide a copy of the laboratory test report to the animal owner.

(4) REPORT FORM. A veterinarian shall report a pseudorabies test result under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identification of the animal tested, and any other information required by the department. The veterinarian shall sign the test report. A report form may be used only for its intended purpose.

(5) IDENTIFYING TESTED ANIMALS. If a veterinarian collects a pseudorabies test sample from an animal that does not yet have an official individual identification, the veterinarian shall identify the animal with an official individual identification.

(6) **SURVEILLANCE SAMPLES; TESTING.** The department shall conduct a surveillance sampling program for pseudorabies. The department shall obtain blood or tissue samples from Wisconsin swine on a systematic basis, and shall test the samples for pseudorabies. Samples may include blood samples routinely collected from slaughtered swine.

(7) **INVESTIGATION; HERD TESTING.** Whenever the department detects pseudorabies in any surveillance sample under sub. (6), the department shall investigate to determine whether swine herds in Wisconsin have been exposed to pseudorabies. The investigation may include additional testing of potentially exposed herds.

(8) **QUARANTINE.** (a) The department may quarantine swine whenever the department reasonably suspects that the swine may be infected with or exposed to pseudorabies. The department may quarantine all swine located on the premises. The quarantine shall comply with s. ATCP 10.91. A herd owner adversely affected by a quarantine order may request a hearing on the order, as provided in s. ATCP 10.91.

(b) The department may release a herd quarantine under par. (a) if at least one of the following occurs:

1. All of the breeding animals and a statistically significant number of the finishing animals in the quarantined herd test negative on 2 consecutive pseudorabies tests approved by the department and administered at least 30 days apart.

2. All swine on the premises are slaughtered, and the premises are cleaned, disinfected and kept free of swine for at least 30 days.

3. The department determines that the herd is not infected based upon survey testing and epidemiological information.

(9) **CONDEMNATION.** (a) The department may summarily condemn and order the destruction of swine whenever the department finds that condemnation is necessary to prevent or reduce the spread of pseudorabies.

Note: See s. 95.27, Stats.

(b) The state veterinarian or designee may issue a condemnation order under par. (a) on behalf of the department. The order shall state the reason for the condemnation. A herd owner may request a hearing on a condemnation order, pursuant to ch. 227, Stats. A request for hearing does not automatically stay the condemnation order.

(10) **HERD PLAN.** (a) A herd plan is an agreement, between the department and an owner of swine, for the eradication of pseudorabies. A herd plan shall comply with the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999, based on the state’s current program stage for control of pseudorabies.

(b) An owner of swine may enter into a herd plan within 60 days after the department quarantines those swine. The department may extend the deadline date for good cause. If a herd owner fails to enter into a herd plan by the deadline date, the herd owner is no longer eligible for indemnities if the department condemns the swine under sub. (9).

(c) A herd plan shall be designed to eradicate pseudorabies within 24 months after the herd plan is signed, or within 24 months after the department quarantines the herd, whichever occurs first. The department may extend the eradication deadline for good cause.

(d) The department shall periodically review and document a herd owner’s performance under a herd plan. If a herd owner fails or refuses to comply with a herd plan, the department may issue a notice revoking the herd owner’s eligibility for indemnities on swine condemned under sub. (9). The state veterinarian may issue the notice on behalf of the department. A herd owner may request a hearing on the notice, pursuant to ch. 227, Stats.

(11) **MOVEMENT OF DISEASED SWINE.** Whenever the department orders or authorizes the movement of swine quarantined for pseudorabies, the department shall take reasonable steps to notify other herd owners who may be adversely affected by the move-

ment. The department shall, if practicable, issue a written notice to the other herd owners at least 10 days before the swine are moved.

Note: Copies of the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999 (APHIS publication 91–55–047) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708–8911

History: Cr. Register, December, 1990, No. 420, eff. 1–1–91; renum. (3) to be (3) (a), cr. (3) (b), Register, September, 1993, No. 453, eff. 10–1–93; r. and recr. Register, November, 2000, No. 539, eff. 12–1–00; CR 02–054; r. and recr. (3) Register May 2003 No. 569, eff. 6–1–03; correction in (8) (a) made under s. 13.93 (2m) (b) 7., Register May 2003 No. 569.

ATCP 10.32 Qualified pseudorabies negative herd; certification. (1) **INITIAL CERTIFICATION.** The department may certify a herd of swine as a qualified pseudorabies negative herd if the herd qualifies under the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999.

(2) **MAINTAINING CERTIFICATION.** To maintain a qualified pseudorabies negative herd certification, a herd owner shall comply with applicable requirements under the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke the qualified pseudorabies negative herd certification if any of the following occurs:

1. An animal in the herd tests positive for pseudorabies.

2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999 (APHIS publication 91–55–047) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708–8911

History: Cr. Register, November, 2000, No. 539, eff. 12–1–00.

ATCP 10.33 Qualified pseudorabies negative grow-out herd; certification. (1) **INITIAL CERTIFICATION.** The department may certify a herd of swine as a qualified pseudorabies negative grow-out herd if the herd qualifies under the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999.

(2) **MAINTAINING CERTIFICATION.** To maintain a qualified pseudorabies negative grow-out herd certification, a herd owner shall comply with applicable requirements under the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke the pseudorabies negative grow-out herd certification if any of the following occurs:

1. An animal in the herd tests positive for pseudorabies.

2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA pseudorabies eradication state–federal–industry program standards dated January 1, 1999 (APHIS publication 91–55–047) are on file

with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (4) (a), Register, September, 1993, No. 453, eff. 10-1-93; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.34 Feeder swine pseudorabies monitored herd; certification. (1) **INITIAL CERTIFICATION.** The department may certify a herd of swine as a feeder swine pseudorabies monitored herd if the herd qualifies under USDA pseudorabies eradication state-federal-industry program standards dated January 1, 1999.

(2) **MAINTAINING CERTIFICATION.** To maintain a feeder swine pseudorabies monitored herd certification, the herd owner shall comply with applicable requirements under the USDA pseudorabies eradication state-federal-industry program standards dated January 1, 1999.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke the feeder swine pseudorabies monitored herd certification if any of the following occurs:

1. An animal in the herd tests positive for pseudorabies.
2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA pseudorabies eradication state-federal-industry program standards dated January 1, 1999 (APHIS publication 91-55-047) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.35 Brucellosis testing. (1) **WHO MAY TEST.** The person who collects a swine brucellosis test sample under this chapter, ch. ATCP 11 or 12 shall be one of the following:

(a) An accredited veterinarian. If the veterinarian collects the test sample in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

(b) An authorized employee or agent of the department or the federal bureau.

(2) **TEST PROCEDURES.** A person who collects a brucellosis test sample shall comply with all procedural requirements of the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998. The person shall submit the sample to a state or federal laboratory that the department or the federal bureau has approved to conduct swine brucellosis serology tests.

(3) **VETERINARIAN TO REPORT.** A veterinarian who collects a brucellosis test sample from swine in this state shall do all the following:

(a) Report the test result to the department within 10 days after the veterinarian obtains the test result. The veterinarian shall immediately report any positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. This reporting requirement does not apply if the laboratory analyzing the test sample simultaneously reports the test result to the department and the veterinarian.

(b) Provide a copy of the laboratory test report to the animal owner.

Note: See also ss. ATCP 10.02 and 10.03.

(4) **REPORT FORM.** A veterinarian shall report a brucellosis test result under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identifica-

tion of the animal tested, and any other information required by the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998. The veterinarian shall sign the report form. A report form may only be used for the purpose intended.

(5) **IDENTIFYING TESTED ANIMALS.** If a veterinarian collects a brucellosis test sample from a swine that does not yet have an official individual identification, the veterinarian shall identify the animal with an official individual identification.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-054: r. and recr. (3) Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.36 Brucellosis reactors. (1) **CLASSIFICATION.** The department shall classify, as a brucellosis reactor, any swine that qualifies as a reactor under the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998.

(2) **ACTION REQUIRED.** Within 15 days after the department classifies a swine as a brucellosis reactor, the herd owner shall do all the following:

(a) Have the swine identified as a reactor and shipped to slaughter in compliance with the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998.

(b) Clean and disinfect the premises where the swine was kept.

(3) **DEADLINE EXTENSION.** The department may, for good cause, extend a deadline under sub. (2). The department may not extend a deadline under sub. (2) (a) for more than 15 days.

Note: Copies of the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998 (APHIS publication 91-55-042) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.37 Brucellosis indemnity. A swine owner may request an indemnity under s. 95.26 (7), Stats., for a brucellosis reactor slaughtered under s. ATCP 10.36. The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. A swine owner does not qualify for an indemnity if the owner fails to comply with s. ATCP 10.36.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

ATCP 10.38 Brucellosis-free herd; certification. (1) **INITIAL CERTIFICATION.** The department may certify a herd of swine as a validated brucellosis-free herd if the herd qualifies under the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998.

(2) **MAINTAINING CERTIFICATION.** To maintain a validated brucellosis-free herd certification, the herd owner shall comply with applicable requirements under the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke the brucellosis-free herd certification if any of the following occurs:

1. An animal in the herd tests positive for brucellosis.

2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA swine brucellosis control/eradication state-federal-industry uniform methods and rules dated April, 1998 (APHIS publication 91-55-042) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.

Subchapter V — Equine Diseases

ATCP 10.40 Equine infectious anemia; testing.

(1) **WHO MAY TEST.** A person performing an equine infectious anemia test under this chapter, ch. ATCP 11 or 12 shall be one of the following:

(a) An accredited veterinarian. If the veterinarian performs the test in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

(b) A veterinarian employed by the department or the federal bureau.

(c) A technician employed by the department or the federal bureau if the technician performs only routine screening tests under the direct supervision of a veterinarian employed by the department or the federal bureau.

(2) **SAMPLE IDENTIFICATION.** The veterinarian who draws the blood sample for an equine infectious anemia test shall identify the sample with the official individual identification of the equine animal from which the sample was collected. The identification shall accompany the blood sample submitted for testing.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94; renum. (2) (intro.) to be (2), r. (2) (a) to (d), Register, March, 1995, No. 471, eff. 4-1-95; r. and recr. (1), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-054: cr. (1) (c) Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.41 Equine infectious anemia; quarantine.

(1) **TEST POSITIVE ANIMAL.** (a) *Quarantine.* The department shall summarily quarantine every animal that tests positive on an infectious anemia test. The quarantine notice shall comply with s. ATCP 10.91 and shall also include all of the following:

1. Notice of the positive equine infectious anemia test.
2. Notice that the owner or custodian may request a retest under sub. (4).

3. Notice that the state veterinarian may order the animal to be branded under sub. (7).

(b) *Notification; participation or show event coordinators.* If the department determines that an infected animal participated in performance or show events, the department shall notify the event sponsor that an infected animal was present at the event. The event sponsor shall notify other participants that their animals may have been exposed.

(2) **EXPOSED ANIMALS; QUARANTINE.** If an equine animal tests positive for equine infectious anemia, the department shall summarily quarantine all of the equine animals kept at the premises where that animal is normally housed. The quarantine shall comply with s. ATCP 10.91.

(3) **HEARING REQUEST.** A person adversely affected by a quarantine under sub. (1) or (2) may, within 30 days after the quarantine is served, request a hearing on the quarantine as provided under s. ATCP 10.91 (6). A request for hearing does not automatically stay a quarantine notice.

(4) **RETESTING UPON REQUEST.** The department shall retest an animal quarantined under sub. (1) if, within 10 days after the quarantine notice is served, the department receives a written request for a retest from the owner or custodian of the quarantined animal. A request for a retest does not stay a quarantine notice under sub. (1). A retest fee of \$25.00 shall be charged to the owner or custodian who requested the retest.

(5) **RETEST PROCEDURE.** If an equine animal is retested under sub. (4), a state or federal veterinarian shall positively identify the retested animal as being the same animal originally tested. The state or federal veterinarian who identifies the retested animal shall draw the blood sample for the retest. The blood sample for the retest shall be drawn not less than 14 days after the department receives the written request nor more than 45 days after the blood sample for the initial test was drawn.

(6) **QUARANTINE RELEASE BASED ON RETEST.** If a retest under sub. (4) indicates that the original test result may have been a false positive, the department may release the quarantine issued under sub. (1). The release of a quarantine under sub. (1) does not prevent the department from issuing a quarantine under sub. (2) for the same animal if the 45 day time period under sub. (2) has not yet expired.

(7) **ORDER TO BRAND TEST POSITIVE ANIMAL.** The state veterinarian shall, by written notice, order that a test positive animal quarantined under sub. (1) be branded under sub. (8). The order shall be served on the owner and on the custodian of the animal to be branded. The state veterinarian shall not issue a branding order under this subsection if any of the following apply:

(a) The time for requesting a hearing or retest under sub. (3) or (4) has not yet elapsed.

(b) A hearing has been requested under sub. (3) and the contested case proceeding is not yet completed.

(c) A retest has been requested under sub. (4) and has not yet been completed.

(d) A retest has failed to confirm the initial test result that prompted the quarantine.

(e) The state veterinarian is restrained by a judicial order, or by order of the department's secretary or hearing examiner under ch. ATCP 1.

(f) The department has released its quarantine under sub. (1).

(g) The state veterinarian determines that branding is not appropriate or necessary.

(8) **BRANDING TEST POSITIVE ANIMALS.** (a) A state or federal veterinarian shall execute a branding order under sub. (7) by applying a "35a" freeze brand to the left side of the animal's neck. A branding order may not be executed under this paragraph sooner than 14 days after the order is served on the owner and custodian of the animal, unless the owner and custodian consent in writing to have the animal branded at an earlier date.

(b) An equine animal branded under this section is quarantined to the extent provided under sub. (9) (a), but is no longer quarantined under sub. (1).

(c) No person may, except by judicial or administrative process, prevent a state or federal veterinarian from executing a branding order in compliance with this subsection.

(9) **QUARANTINE TERMS AND CONDITIONS.** (a) An equine animal quarantined under sub. (1), (2) or (8) (b) shall be kept in a tightly screened stall that is secure against the movement of flies, or shall be kept a minimum of 300 yards from other equine animals not known to be infected with equine infectious anemia.

(b) No person may move, sell or transfer custody of an equine animal quarantined under sub. (1), (2) or (8) (b), without a permit from the department. The department shall grant or deny the permit within 5 days after the permit is requested.

History: Cr. Register, January, 1994, No. 457, eff. 2-1-94; r. and recr. (1) and (2), Register, November, 2000, No. 539, eff. 12-1-00; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, November, 2000, No. 539; CR 02-078: am. (1) (a) (intro.), (2) and (3) Register May 2003 No. 569, eff. 6-1-03.

Subchapter VI — Poultry and Farm-Raised Game Bird Diseases

ATCP 10.50 Poultry and farm-raised game birds; disease control. (1) PROHIBITIONS.

(a) No poultry or farm-raised game birds may be used for breeding purposes and no poultry eggs or farm-raised game bird eggs may be used for hatching unless they originate from a flock classified "U.S. pullorum-typhoid clean" under the national poultry improvement plan. No turkeys or turkey eggs may be used for breeding purposes or hatching unless they originate from a flock classified "Mycoplasma gallisepticum clean" under the national poultry improvement plan.

(b) No person may use, sell or transfer any poultry, poultry eggs, farm-raised game birds or farm-raised game bird eggs for breeding or hatching purposes unless they comply with this section and s. ATCP 11.40.

(2) GENERAL PROVISIONS. (a) All blood samples for testing under this section shall be drawn by an authorized agent of the department.

(b) Whenever the department's agent draws blood samples from poultry or farm-raised game birds, for testing under this section, the agent shall do one of the following:

1. Identify each bird with an official individual identification and label each blood sample with the bird's identification number.

2. Require the flock owner or the flock owner's agent to isolate the test group of birds from others in the flock, if the test group includes 25 or more birds. The flock owner or the flock owner's agent shall isolate the test group until the department receives the test results and authorizes the flock owner or flock owner's agent to release the test group from isolation. If any bird in the test group tests positive, the department may require further testing of all birds in the test group and may specify the disposition of all birds in the test group.

(c) A laboratory approved by the department shall test blood samples drawn from turkeys under this section. The department's agent may field test blood samples drawn from poultry other than turkeys, using a method approved by the department.

(d) Breeder flock and hatchery inspections shall be conducted by the department.

(e) All breeder flock and hatchery owners shall follow sanitation procedures prescribed by the department.

(f) If a flock or hatchery owner, or any person providing poultry disease diagnostic services, obtains test results or evidence indicating the presence of pullorum, fowl typhoid or other serotypes of *Salmonella* in poultry or farm-raised game birds, or *Mycoplasma gallisepticum* in turkeys, that person shall report the test results or evidence to the department within 10 days.

(g) The department may investigate a confirmed report of pullorum or fowl typhoid in any poultry or farm-raised game birds, or of *Mycoplasma gallisepticum* in turkeys, to determine the origin and mode of transmission of the infection.

(h) The department shall quarantine every poultry or farm-raised game bird flock classified as a reactor, infected or suspect flock under the national poultry improvement plan. The department may specify, in the quarantine order, terms for the release of the quarantine. Quarantined poultry or farm-raised game birds may not be moved from the premises on which they are quarantined, except that quarantined poultry or farm-raised game birds may be shipped directly to slaughter if all the following apply:

1. The poultry or farm-raised game birds are accompanied by a USDA permit for movement of restricted animals (form VS 1-27), or a comparable form approved by the department.

2. The flock owner provides the department with proof of slaughter, upon request.

(3) PREMISES. No turkey breeding flocks may be commingled with other species of domestic fowl or reared within 100 yards of any other poultry or farm-raised game birds.

(4) HATCHERIES. (a) No hatchery operator may hatch any poultry or farm-raised game bird eggs, or keep any poultry or farm-raised game bird eggs on the hatchery premises, unless the eggs originate from a flock that complies with this section.

(b) No eggs of any other species of fowl may be hatched in a turkey hatchery.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. (2) (b) and (c), r. (4) (c), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-054: am. (1) (a) and (2) (h), r. and recr. (2) (b) Register May 2003 No. 569, eff. 6-1-03; CR 03-121: am. (1), (2) (b) (intro.), (f), (g), (h) (intro.) and 1., (3) and (4) (a) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.51 National poultry improvement plan; flock enrollment. (1) ANNUAL FLOCK ENROLLMENT. The owner of a flock of poultry or farm-raised game birds may annually enroll that flock in the national poultry improvement plan. An annual enrollment expires on June 30 of each year.

(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).

Note: A flock owner may request an enrollment application form by calling (608) 224-4903, by visiting the Wisconsin state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(3) ANNUAL DISEASE TESTING. A flock owner applying for enrollment under sub. (1) shall submit proof to the department that the flock has been tested for salmonella pullorum-typhoid, within one year prior to the enrollment application date, according to the national poultry improvement plan and auxiliary provisions dated February, 2004.

Note: Salmonella pullorum-typhoid testing requirements under the national poultry improvement plan and auxiliary provisions dated February 2004 are on file with the department, the secretary of state and the revisor of statutes. The department will provide free copies to Wisconsin flock owners upon request. A flock owner may request a copy by calling (608) 224-4903, by visiting the Wisconsin state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(4) FEE. A flock owner applying for enrollment under sub. (1) shall pay an annual enrollment fee. The flock owner shall pay the following applicable fee, based on flock type:

(a) \$20 if the flock consists solely of specialty breeds, other than breeds commonly raised for meat or egg production, and the flock owner raises the birds primarily for exhibition.

(b) \$20 if the flock owner does not hatch or collect eggs, and obtains stock solely from flocks enrolled in the national poultry improvement plan.

(c) \$30 if the flock includes captive game birds, the flock owner does not hatch or collect eggs, and the flock owner obtains stock solely from flocks enrolled in the national poultry improvement plan.

(d) The following applicable fee for a breeding flock of poultry or farm-raised game birds:

1. \$40 if the flock includes no more than 1,000 breeders.

2. \$50 if the flock includes more than 1,000 breeders, but no more than 5,000 breeders.

3. \$100 if the flock includes more than 5,000 breeders, but no more than 10,000 breeders.

4. \$200 if the flock includes more than 10,000 breeders.

History: CR 03-121: cr. Register September 2004 No. 585, eff. 10-1-04.

Subchapter VII — Cervid Diseases

ATCP 10.60 Cervids; disease testing. (1) ANIMALS AVAILABLE FOR TESTING. The owner or custodian of a herd of captive cervids shall make the herd available to the department for disease testing upon request.

(2) ANIMALS RESTRAINED FOR TESTING. The owner or custodian of a herd of captive cervids shall restrain the cervids for disease testing in a manner which insures the safety of the cervid and of the person performing the test. The owner or custodian shall restrain the cervids by one of the following methods:

(a) By providing animal handling facilities that comply with sub. (3).

(b) By tranquilizing the cervids so they can be safely tested. No department staff may tranquilize the cervids. If the department determines that a cervid is not adequately tranquilized, so that the safety of the cervid and the persons performing the test cannot be reasonably ensured, the department may require the owner or custodian to provide additional tranquilization before the department proceeds with testing. The department assumes no liability for any injury or death of a cervid which may be caused by tranquilization.

(c) By moving the cervids, pursuant to a permit issued under s. ATCP 11.60 (4), to an isolation and testing facility approved under s. ATCP 11.56 (4) where the cervids can be safely tested.

(3) ANIMAL HANDLING FACILITIES. (a) Animal handling facilities under sub. (2) (a) shall include all of the following:

1. A holding pen in which cervids can be safely directed into an alleyway and then to a chute or individual restraining pen for testing.

2. An alleyway through which cervids can be safely guided into a chute or restraining pen for testing.

3. A chute or restraining pen which can safely hold cervids for testing.

4. Adequate fencing. Fences used to confine cervids in animal handling facilities shall be at least 7 feet 10 inches high, except that fences used to confine cervids of the genus *rangifer* shall be at least 5 feet high.

(b) If the department determines that animal handling facilities do not comply with par. (a), the department may order the owner or custodian to modify the facilities, to provide acceptable alternative facilities, or to provide an acceptable alternative method of restraining cervids under sub. (2). The owner or custodian shall comply with the department's order within 30 days, unless for good cause the department specifies a different time period.

History: Emerg. cr. eff. 6-3-96; cr. Register, December, 1996, No. 492, eff. 1-1-97; am. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renun. from ATCP 10.651 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.61 Farm-raised deer; keepers registered.

(1) REGISTRATION CERTIFICATE REQUIRED. (a) Except as provided in par. (b), no person may keep farm-raised deer unless that person holds a current annual registration certificate issued by the department under this section. A registration certificate is not transferable between persons or herd locations.

(b) 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.

(1m) AUTHORITY CONFERRED BY REGISTRATION CERTIFICATE.

(a) Except as provided in pars. (b) and (c), a person holding a registration certificate under sub. (1) may possess, propagate, kill, attempt to kill, pursue for the purpose of killing, capture or exhibit farm-raised deer kept at the registered premises, subject to this chapter.

(b) A person holding a registration certificate under sub. (1) may not sell or offer others the opportunity to hunt farm-raised deer on the registered premises unless that person complies with s. ATCP 10.615.

(c) A registration certificate under sub. (1) does not entitle the certificate holder to operate as an animal dealer unless that person is also licensed under s. ATCP 12.03.

Note: An animal dealer license under s. ATCP 12.03 does not entitle the license holder to keep farm-raised deer unless that person also holds a registration certificate under sub. (1).

(2) REGISTRATION CERTIFICATE EXPIRES. A registration certificate under sub. (1) expires on December 31 of each year. The holder of a registration certificate may renew that certificate by submitting an annual renewal application under sub. (5).

(3) HERDS KEPT AT SEPARATE LOCATIONS. A person keeping farm-raised deer at more than one location shall do one of the following:

(a) Obtain a separate registration certificate for each location. No person may move farm-raised deer between separately registered locations without complying with s. ATCP 11.56.

(b) Register multiple locations under a single registration certificate if all the following apply:

1. The herd is enrolled and participating in the chronic wasting disease monitoring program under s. ATCP 10.67.

2. Every farm-raised deer is identified with official individual identification before it is moved between any of the locations.

(c) All farm-raised deer kept at locations covered by a single registration certificate under par. (b) are considered a single herd for disease control purposes.

(d) Farm-raised deer may be moved between locations covered by the same registration certificate under par. (b) without a certificate of veterinary inspection under s. ATCP 11.56 (1).

(4) SEPARATE HERDS KEPT AT SAME LOCATION. A single herd registration covers all farm-raised deer kept at the same location, except that a person may register separate herds at the same location if all the following apply:

(a) There is medically significant separation of the herds, and adequate fencing and facilities to maintain that separation at all times.

(b) The person files a separate registration application under sub. (5) for each herd.

(c) The department inspects the herd premises for compliance with par. (a) before registering any herd at a location where another herd is also registered. The registrant shall pay the fee required under sub. (6) (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.

(d) The person complies with s. ATCP 11.56 if the person moves any farm-raised deer between the herds.

(e) The person adopts and implements appropriate bio-security measures.

(5) APPLYING FOR REGISTRATION CERTIFICATE. To obtain or renew a registration certificate, a person keeping farm-raised deer shall file a registration application on a form provided by the department. The application shall include the fees required under sub. (6). The application form shall include all of the following information:

(a) The name, address and telephone number of the herd owner.

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

(c) The location at which the farm-raised deer will be kept, including the county, township, section and fire number assigned to that location.

(d) The number of farm-raised deer in the herd.

(e) A breakdown, by species, age and sex, of the farm-raised deer in the herd.

Note: A person may obtain a registration form by calling (608) 224-4872, by visiting Wisconsin's state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(6) FEES. (a) A person applying for a registration certificate shall pay the following registration fees:

1. An annual fee of \$50 if the herd includes no more than 15 farm-raised deer.

2. An annual fee of \$100 if the herd includes more than 15 farm-raised deer.

3. Any supplemental fees required under pars. (b) to (d).

(b) A person who applies to register a herd at the same location where another herd is registered shall pay a fee of \$150 for each day needed to complete an inspection under sub. (4) (c).

(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 without a required registration certificate. 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.

(d) A person who applies for the renewal of a herd registration certificate after that certificate has expired shall pay, in addition to all other fees required under this subsection, a fee equal to 20% of those fees.

Note: See s. 93.21 (5) (b), Stats.

(7) ACTION ON REGISTRATION APPLICATION. The department shall grant or deny a registration application 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. (4) (c).

(8) DENYING, SUSPENDING OR REVOKING A REGISTRATION CERTIFICATE. The department may deny, suspend or revoke a registration certificate for cause, including any of the following:

- (a) Filing an incomplete or fraudulent application, or misrepresenting any information on an application.
- (b) Violating ch. 95, Stats., this chapter or ch. ATCP 11.
- (c) Violating the terms of the registration certificate.
- (d) Preventing a department employee from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- (e) Physically assaulting a department employee while the employee is performing his or her official duties.
- (f) Refusing or failing, without just cause, to do any of the following:

1. Produce records under sub. (9).
2. Comply with a lawful department subpoena or order.
- (g) Paying a registration fee with a worthless check.

(9) RECORDKEEPING. (a) A person who keeps farm-raised deer shall keep all of the following records related to each live farm-raised deer that leaves the herd other than for slaughter, or that enters the herd from another herd:

1. The official individual identification of the farm-raised deer.
2. The species, age and sex of the farm-raised deer.
3. The date on which the farm-raised deer entered or left the herd.
4. The name and address of the person from whom the person received, or to whom the person shipped, the farm-raised deer. The record shall also identify the person who had custody of the farm-raised deer during shipment.

5. The address of the herd from which the farm-raised deer originated, or to which it was shipped.

6. A copy of any certificate of veterinary inspection that accompanied the farm-raised deer under s. ATCP 11.56.

(b) A person who keeps farm-raised deer shall keep all of the following records related to each farm-raised deer that the person ships live to slaughter:

1. The official individual identification of the farm-raised deer.
2. The species, age and sex of the farm-raised deer.
3. The date on which the farm-raised deer was shipped to slaughter.
4. The name and address of the slaughter facility.
5. The name and address of the person who transported the farm-raised deer to slaughter.

6. A copy of any slaughter movement document required under this chapter or ch. ATCP 11.

Note: For example, see s. ATCP 11.56 (2) (a) related to slaughter movement documents.

7. Chronic wasting disease test results required under s. ATCP 10.66 (1) (b).

(c) A person who keeps farm-raised deer shall keep all of the following records related to every farm-raised deer that dies, or is killed or slaughtered, on the herd premises:

1. The species, age and sex of the farm-raised deer.
2. Any identification attached to the farm-raised deer, including any carcass identification required under sub. (12).
3. The date on which the farm-raised deer died, or was killed or slaughtered. If the farm-raised deer was found dead on the premises, the person shall record the date on which the farm-raised deer was found dead.
4. The disposition of the carcass, regardless of whether the carcass leaves the premises. If the carcass leaves the herd premises, the disposition record shall include the disposition date, the

name and address of the carcass recipient, and the carcass identification required under sub. (12).

5. Chronic wasting disease test results required under s. ATCP 10.66 (1) (a).

(d) A person required to keep records under pars. (a) to (c) shall retain those records for at least 5 years, and shall make the records available to the department for inspection and copying upon request.

(10) PROHIBITIONS. No person keeping a herd of farm-raised deer may do any of the following:

(a) Add a cervid to the herd, from outside the herd, unless the cervid is one of the following:

1. Imported into this state in compliance with s. ATCP 11.55.
2. Moved, in compliance with s. ATCP 11.56, from another herd that holds a current annual registration certificate under sub. (1).

(b) Take or accept into the herd, on a temporary or permanent basis, any cervid from a free-ranging herd.

Note: Among other things, paragraph (b) prohibits a keeper of farm-raised deer from accepting orphan fawns or injured deer for temporary care pending return to the free-ranging herd. Persons accepting orphan fawns and injured deer must hold a rehabilitation license under s. 169.24, Stats., and must keep those fawns and injured deer separate from any farm-raised deer herd.

(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.

(11) REPORT ESCAPED FARM-RAISED DEER. 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 48 hours after the escape occurs.

Note: A person may report an escape under sub. (11) by telephone, by calling (608) 224-4872.

(12) CARCASS IDENTIFICATION. (a) No person may remove any farm-raised deer carcass from the premises where the farm-raised deer was kept unless that carcass is identified with official individual identification, or with a dead tag issued by the department. No part of a carcass may leave the premises unless every part of the carcass bears official individual identification or a dead tag, and the farm-raised deer keeper keeps records that identify and correlate all of the official individual identification and dead tag numbers related to that farm-raised deer.

(b) The department shall, upon request, issue dead tags under par. (a) to persons holding valid farm-raised deer herd registration certificates under this section. The department may charge fees for dead tags to cover the department's reasonable costs to produce and distribute the dead tags.

Note: A person may obtain dead tags from the department by calling (608) 224-4889, by visiting the Wisconsin state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: CR 02-078: cr. Register May 2003 No. 569, eff. 6-1-03; CR 03-121: cr. (1m) and (12), am. (4) (c), r. and recr. (9) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.615 Hunting preserves. (1) DEFINITIONS. In this section, "hunt" means to kill, attempt to kill or pursue for the purpose of killing a farm-raised deer. "Hunt" does not include the killing, attempted killing or pursuit of a farm-raised deer, on premises owned or controlled by the deer owner, by any of the following:

- (a) The deer owner.
- (b) A person who gives no consideration for the opportunity to kill, attempt to kill or pursue the farm-raised deer, or for any part of the deer's carcass.
- (c) A person who kills the farm-raised deer for meat, provided that the department conducts an ante mortem inspection of the deer and a post-mortem inspection of the carcass under s. 97.42, Stats., and ch. ATCP 55.

(d) The department, the Wisconsin department of natural resources, the United States department of agriculture, or other persons or entities that the department authorizes in writing.

(2) REQUIREMENTS. No person may grant or offer, for consideration, the opportunity to hunt farm-raised deer on any premises in this state unless all of the following apply:

(a) The person holds a valid farm-raised deer herd registration certificate under s. ATCP 10.61 (1) for the premises, and keeps the farm-raised deer at the registered premises.

(b) The person holds a valid hunting preserve certificate under sub. (3) for the premises.

(c) Farm-raised deer, when hunted, have unimpeded access to at least 80 contiguous acres of land.

(d) The person complies with applicable requirements under this section.

(3) HUNTING PRESERVE CERTIFICATE. (a) The department may issue a hunting preserve certificate for premises registered under s. ATCP 10.61 (1). A hunting preserve certificate expires 10 years after it is issued, on the anniversary date of its issuance. A certificate is not transferable between persons or premises. A hunting preserve certificate is not valid if the certificate holder no longer holds a valid farm-raised deer herd registration certificate under s. ATCP 10.61 (1).

(b) A person shall apply for a hunting preserve certificate under par. (a) on a form provided by the department. The application shall include all of the following:

1. The applicant's name, address, and registration number under s. ATCP 10.61 (1).

2. The address of the premises, registered under s. ATCP 10.61 (1), for which the applicant seeks a hunting preserve certificate.

3. Documentation showing that farm-raised deer hunted on the premises will have unimpeded access to at least 80 contiguous acres of land.

4. A nonrefundable fee of \$150.

Note: A person may obtain an application form under par. (b) by calling (608) 224-4889, by visiting the Wisconsin state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(c) The department shall grant or deny an application under par. (b) within 90 business days after the department receives a complete application. The department shall inspect the premises before issuing a hunting preserve certificate, and may inspect records as necessary to determine whether the applicant and premises qualify for a certificate.

(4) CHRONIC WASTING DISEASE TESTING. A person required to hold a hunting preserve certificate under this section shall comply with chronic wasting disease testing requirements under s. ATCP 10.66. The person shall give a hunter the results of each chronic wasting disease test conducted on a farm-raised deer killed by that hunter on the person's hunting preserve.

(5) REMOVING OR ALTERING OFFICIAL IDENTIFICATION. No person may remove, alter or tamper with the official individual identification given to a farm-raised deer, except as authorized by the department or the federal bureau.

(6) CARCASS IDENTIFICATION. A person who is required by sub. (2) (b) to hold a hunting preserve certificate shall identify the carcass of every farm-raised deer killed on the hunting preserve, before the carcass leaves the premises. Identification shall comply with s. ATCP 10.61 (12).

(7) RECORDKEEPING. A person who is required by sub. (2) (b) to hold a hunting preserve certificate shall do all of the following:

(a) Keep the records required under s. ATCP 10.61 (9).

(b) Keep all of the following records related to each farm-raised deer that is killed on the hunting preserve:

1. The name and address of the person who killed the farm-raised deer.

2. The date when the farm-raised deer was killed, and the location of the premises where it was killed.

3. The name and address of the person who collected the test sample for the chronic wasting disease test required under sub. (4).

4. The laboratory test reports from the chronic wasting disease test required under sub. (4).

5. The disposition of the carcass. This record shall include the name and address of the person who took custody of the carcass. If the carcass is buried or otherwise disposed of, the record shall identify the disposal method and location.

6. The official individual identification of the carcass, or the dead tag number attached to the carcass under s. ATCP 10.61 (12), 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.

(c) Retain the records under pars. (a) and (b) for at least 5 years, and make the records available to the department for inspection and copying upon request.

(8) PROHIBITED CONDUCT. No person required to hold a hunting preserve certificate under sub. (2) may do any of the following:

(a) Violate or allow others to violate s. 29.314 (3), Stats.

(b) Violate or assist any violation of this chapter, ch. ATCP 11 or 12.

History: CR 03-121: cr. Register September 2004 No. 585, eff. 1-1-05.

ATCP 10.62 Tuberculosis in cervids. (1) WHO MAY TEST. A person who performs a tuberculosis test on a cervid shall be one of the following:

(a) An accredited veterinarian. If the veterinarian performs the test in this state, the veterinarian shall also be a Wisconsin certified veterinarian whom the department has trained to perform tuberculosis tests on cervids. A veterinarian may not perform a tuberculosis test on a cervid from a quarantined herd or known infected herd, except with the department's approval.

(b) A veterinarian employed by the federal bureau or the department.

(2) TEST PROCEDURES. (a) A veterinarian who performs a tuberculosis test on a cervid in Wisconsin shall comply with applicable procedures in the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(b) A blood tuberculosis test (BTB test) may not be used as an official tuberculosis test for any purpose in this state.

(3) VETERINARIAN TO REPORT. A veterinarian who performs a tuberculosis test on a cervid in Wisconsin shall report the test result to the department within 10 days after the veterinarian observes the result. A veterinarian shall immediately report a positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. A veterinarian shall provide a copy of every test report to the animal owner.

Note: See ss. ATCP 10.02 and 10.03

(4) REPORT FORM. A veterinarian shall report a tuberculosis test result under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identification of the animal tested, and any other information required by the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999. The veterinarian shall sign the report. A report form may be used only for its intended purpose.

(5) IDENTIFYING TESTED ANIMALS. If a veterinarian performs a tuberculosis test on a cervid that does not yet have an official individual identification, the veterinarian shall identify the cervid with an official individual identification.

Note: See s. ATCP 11.545 regarding identification of cervids.

(6) TEST POSITIVE CERVIDS. Whenever the department receives a positive tuberculosis test report under sub. (3), the department shall classify the tested cervid as a tuberculosis suspect and shall conduct additional testing to determine whether the cervid is a tuberculosis reactor.

(7) **TUBERCULOSIS REACTORS.** (a) The department shall classify a cervid as a tuberculosis reactor if the cervid qualifies as a reactor under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(b) Within 15 days after the department classifies a cervid as a tuberculosis reactor, the animal owner shall do all the following:

1. Have the cervid identified as a reactor and shipped to slaughter in compliance with the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

2. Clean and disinfect the premises where the cervid was kept.
(c) The department may, for good cause, extend a deadline under par. (b). The department may not extend a deadline under par. (b) 1. for more than 15 days.

(8) **SLAUGHTERED ANIMALS.** (a) A tuberculosis reactor shall be slaughtered and inspected according to the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(b) If a tuberculosis suspect is slaughtered, it shall be slaughtered and inspected according to the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(9) **TUBERCULOSIS INDEMNITY.** An animal owner may request an indemnity under s. 95.25 (5), Stats., for a slaughtered tuberculosis reactor. The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. An animal owner does not qualify for an indemnity if the owner fails to comply with sub. (7).

Note: Copies of the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999 (APHIS publication 91-45-005) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Emerg. cr. eff. 3-18-91; cr. Register, November, 1991, No. 431, eff. 12-1-91; am. (8) (b) 1., Register, September, 1993, No. 453, eff. 10-1-93; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. r. and recr. (10) (a), cr. (10), (am) and am. (11), eff. 6-3-96; r. and recr. (10) (a), cr. (10) (am), (11) (am), Register, December, 1996, No. 492, eff. 1-1-97; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renum. from ATCP 10.66 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.63 Cervids; tuberculosis herd certification. (1) **INITIAL CERTIFICATION.** The department may certify a herd of cervids as one of the following if the herd qualifies under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999:

- (a) An accredited tuberculosis-free herd.
- (b) A tuberculosis monitored herd.
- (c) A tuberculosis qualified herd.

(2) **MAINTAINING CERTIFICATION.** To maintain a herd certification under sub. (1), a herd owner shall comply with applicable requirements in the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke a herd certification under sub. (1) if any of the following occurs:

- 1. Any cervid in the herd tests positive for tuberculosis.
- 2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. The herd owner may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999 (APHIS publication 91-45-005) are on file at the department, the USDA, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renum. from ATCP 10.67 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.64 Brucellosis in cervids. (1) **WHO MAY TEST.** A person who collects a brucellosis test sample from a cervid shall be one of the following:

(a) An accredited veterinarian. If the veterinarian collects the sample in this state, the veterinarian shall also be a Wisconsin certified veterinarian.

(b) An authorized employee or agent of the department or the federal bureau.

(2) **TEST PROCEDURES.** A person who collects a brucellosis test sample shall comply with applicable requirements in the USDA brucellosis in cervidae uniform methods and rules dated September, 1998. The person shall submit the sample to a state or federal laboratory that the department or the federal bureau has approved to conduct brucellosis tests.

(3) **VETERINARIAN TO REPORT.** A veterinarian who collects a brucellosis test sample from a cervid in this state shall do all the following:

(a) Report the test result to the department within 10 days after the veterinarian obtains the test result. The veterinarian shall immediately report any positive reaction by telephone or other rapid means, and shall confirm the report in writing within 10 days. This reporting requirement does not apply if the laboratory analyzing the test sample simultaneously reports the test result to the department and the veterinarian.

(b) Provide a copy of the laboratory test report to the animal owner.

Note: See ss. ATCP 10.02 and 10.03

(4) **REPORT FORM.** A veterinarian shall report a brucellosis test result under sub. (3) in writing, on a form approved by the department. The report shall include the official individual identification of the animal tested, and any other information required by the USDA brucellosis in cervidae uniform methods and rules dated September, 1998. The veterinarian shall sign the report form. A report form may only be used for its intended purpose.

(5) **IDENTIFYING TESTED ANIMALS.** If a veterinarian collects a brucellosis test sample from a cervid that does not yet have an official individual identification, the veterinarian shall identify the cervid with an official individual identification.

(6) **BRUCELLOSIS REACTORS.** (a) The department shall classify a cervid as a brucellosis reactor if the cervid qualifies as a reactor under the USDA brucellosis in cervidae uniform methods and rules dated September, 1998.

(b) Within 15 days after the department classifies a cervid as a brucellosis reactor, the animal owner shall do all the following:

1. Have the cervid identified as a reactor and shipped to slaughter in compliance with the USDA brucellosis in cervidae uniform methods and rules dated September, 1998.

2. Clean and disinfect the premises where the cervid was kept.
(c) The department may, for good cause, extend a deadline under par. (b). The department may not extend a deadline under par. (b) 1. for more than 15 days.

(7) **BRUCELLOSIS INDEMNITY.** An animal owner may request an indemnity under s. 95.26 (7), Stats., for a slaughtered brucellosis reactor. The animal owner shall file the request with the department, on a form provided by the department. The owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. An animal owner does not qualify for an indemnity if the owner fails to comply with sub. (6).

Note: Copies of the USDA brucellosis in cervidae uniform methods and rules dated September, 1998 (APHIS publication 91-45-12) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renun. from ATCP 10.673 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.65 Cervids; brucellosis herd certification.

(1) **INITIAL CERTIFICATION.** The department may certify a herd of cervids as one of the following if the herd qualifies under the USDA brucellosis in cervidae uniform methods and rules dated September, 1998.

- (a) A brucellosis-free cervid herd.
- (b) A brucellosis monitored cervid herd.

(2) **MAINTAINING CERTIFICATION.** To maintain a herd certification under sub. (1), a herd owner shall comply with applicable requirements under the USDA brucellosis in cervidae uniform methods and rules dated September, 1998.

(3) **SUSPENDING OR REVOKING CERTIFICATION.** (a) The department may summarily suspend or revoke a herd certification under sub. (1) if any of the following occurs:

- 1. A cervid in the herd tests positive for brucellosis.
- 2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. The herd owner may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA brucellosis in cervidae uniform methods and rules dated September, 1998 (APHIS publication 91-45-12) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renun. from ATCP 10.675 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.66 Chronic wasting disease in farm-raised deer. (1) **TESTING REQUIRED.** A person who keeps farm-raised deer in this state shall have a chronic wasting disease test performed on each of the following farm-raised deer that is at least 16 months old:

(a) A farm-raised deer that dies or is killed while kept by that person.

- (b) A farm-raised deer that the person ships to slaughter.

(2) **MOVING LIVE FARM-RAISED DEER FROM HERDS IN THIS STATE.** No person may move a live farm-raised deer from a herd in this state unless the movement complies with s. ATCP 11.56 (1).

(3) **COLLECTING TEST SAMPLES.** (a) Except as provided in par. (b), a person shall collect a test sample for a chronic wasting disease test under sub. (1) before any part of the farm-raised deer carcass leaves the premises where the farm-raised deer died, or was killed or slaughtered.

(b) A person holding a valid farm-raised deer herd registration certificate under s. ATCP 10.61 (1) may separate the head of a farm-raised deer carcass from the rest of the carcass, and may ship the head to the person who collects the test sample for the chronic wasting disease test under sub. (1), if the certificate holder identifies both the head and the rest of the carcass according to s. ATCP 10.61 (12) before either the head or the rest of the carcass leaves the herd premises.

(c) The person who collects a test sample for a chronic wasting disease test sample under sub. (1) shall be one of the following:

- 1. A certified veterinarian.
- 2. An employee of the department or the federal bureau.
- 3. A person approved by the department or the federal bureau.

(d) A person shall complete training approved by the department before collecting a test sample for a chronic wasting disease test under sub. (1). The person shall comply with standard veterinary procedures when collecting test samples.

(e) The person who collects a test sample for a chronic wasting disease test under sub. (1) shall submit that sample to a laboratory approved under sub. (4).

(4) **APPROVED LABORATORIES.** Tests under sub. (1) shall be performed at a laboratory that the department and the federal bureau have approved to conduct chronic wasting disease tests.

(5) **REPORTING DISEASE FINDINGS.** Whenever any person receives a laboratory test result that is positive for chronic wasting disease, that person shall immediately report that result to the department. The person shall report by telephone, FAX or other rapid means within one day after receiving the test result, and shall report in writing within 10 days. The person shall provide a copy of the test result to the owner of the tested cervid.

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

Phone: (608) 224-4872

FAX: (608) 224-4871

Written reports should be made to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(6) **HERD QUARANTINE.** The department shall quarantine a farm-raised deer herd, under s. ATCP 10.91, whenever any farm-raised deer from that herd tests positive for chronic wasting disease. The department shall conduct an epidemiological evaluation of the quarantined herd to determine the appropriate disposition of the herd.

(7) **CONDEMNED FARM-RAISED DEER.** (a) The department may order the slaughter or destruction of a farm-raised deer, as provided in s. 95.23 (1m) or 95.31, Stats. If the department orders the slaughter or destruction of a farm-raised deer, the department shall direct the disposition of the carcass. The owner or custodian of the farm-raised deer shall dispose of the carcass as the department directs.

(b) The owner of a farm-raised deer slaughtered or destroyed under par. (a) may request an indemnity as provided under 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 owner shall include, with the request, a slaughter confirmation signed by an authorized employee of the department or the federal bureau. The owner of a farm-raised deer does not qualify for an indemnity if the owner or custodian of the deer fails to properly dispose of the carcass.

(8) **KEEPER SHALL NOTIFY VETERINARIAN.** Whenever the keeper of farm-raised deer observes signs or symptoms of chronic wasting disease in any animal in the herd, the keeper shall report the signs or symptoms to a certified veterinarian. The person shall make the report within 24 hours after observing the signs or symptoms.

History: CR 02-078: cr. Register May 2003 No. 569, eff. 6-1-03; CR 03-121: r. and recr. (1) and (3), am. (4) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.67 Chronic wasting disease in farm-raised deer; herd monitoring program. (1) **GENERAL.** A person who keeps farm-raised deer in this state may enroll the herd in the chronic wasting disease monitoring program under this section.

Note: No person may move a live farm-raised deer from a herd in this state unless the herd is enrolled in the monitoring program under this section. See ss. ATCP 10.66 (2) and 11.56 (1).

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

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

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

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

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

1. The number, species and sex of farm-raised deer in the herd.
2. The number of farm-raised deer at least one year old.
3. The number of farm-raised deer less than one year old.
4. The official individual identification of each farm-raised deer that is at least one year old.

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

1. That the veterinarian is the herd veterinarian, having established a valid veterinarian-client relationship with the herd owner and a valid veterinarian-patient relationship with the herd.
2. That no farm-raised deer in the herd has shown any clinical signs of chronic wasting disease in the past 12 months.

Note: A person may obtain an application form under sub. (2) by calling (608) 224-4872, by visiting Wisconsin's state website at www.wisconsin.gov, or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

(3) ACTION ON APPLICATION. The department shall grant or deny an application under sub. (2) within 30 days after the department receives a complete application. Except as provided in sub. (8) (c) or (9), the herd is deemed to be enrolled in the monitoring program under this section on the day that the department accepts the application.

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

(a) Identify every farm-raised deer in the herd with official individual identification before the farm-raised deer is one year old.

(b) Have a chronic wasting disease test performed on each of the following farm-raised deer that is at least 16 months old:

1. A farm-raised deer that dies or is killed while kept by that person.
2. A farm-raised deer that the person ships to slaughter.
- (c) Notify the herd veterinarian within 24 hours after observing any signs or symptoms of chronic wasting disease in the herd.
- (d) Complete an annual herd census and file a report of that herd census under sub. (5).

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

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

1. That the veterinarian is the herd veterinarian, having established a valid veterinarian-client relationship with the herd owner and a valid veterinarian-patient relationship with the herd.
2. That the herd has not shown any clinical signs of chronic wasting disease in the past 12 months.

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

- (a) The number, species and sex of farm-raised deer in the herd.
- (b) The number of farm-raised deer at least one year old.
- (c) The number of farm-raised deer less than one year old.
- (d) The official individual identification and any auxiliary identification of each farm-raised deer that is at least one year old.

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

(f) The number, species and sex of farm-raised deer that have died or left the herd since the last reported herd census. The report shall indicate, for each farm-raised deer that has died or left the herd, all the following:

1. Whether the farm-raised deer died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.

2. If the farm-raised deer was shipped live other than to slaughter, the name and address of the person to whom it was shipped and the place to which it was shipped.

3. If the farm-raised deer died on the herd premises, its age and the disposition of its carcass. If the carcass left the premises, the report shall identify the carcass destination or recipient. If the farm-raised deer was at least 16 months old, the report shall include the result of the chronic wasting disease test required under sub. (4) (b).

4. If the farm-raised deer was shipped to slaughter, its age and the name and address of the slaughter establishment. If the farm-raised deer was at least 16 months old, the report shall include the result of the chronic wasting disease test required under sub. (4) (b).

(6) HERD RECORDS. A person keeping a monitored herd under this section shall keep the following herd records for at least 5 years, and shall make those records available to the department for inspection and copying upon request:

(a) A record of each farm-raised deer added to the herd from another source, including:

1. The species, age, sex and official individual identification of the farm-raised deer.
2. The name and address of the person from whom the farm-raised deer was obtained.
3. The address of the herd from which the farm-raised deer was obtained.
4. A copy of the certificate of veterinary inspection related to the shipment.

(b) A record of each farm-raised deer leaving the herd, including all the following:

1. Whether the farm-raised deer died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
2. If the farm-raised deer was shipped live other than to slaughter, the name of the person to whom it was shipped, the place to which it was shipped and a copy of the certificate of veterinary inspection related to the shipment.

3. If the farm-raised deer died on the premises, the apparent cause of death, the age of the farm-raised deer, and the disposition of its carcass. If the carcass left the premises, the record shall identify the carcass destination or recipient.

4. If the farm-raised deer was shipped to slaughter, its age and the name and address of the slaughter establishment.

(c) A record of all chronic wasting disease tests conducted on farm-raised deer in the herd.

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

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

1. Falsifies any information in an enrollment application, or falsifies any subsequent information required for continued enrollment.

2. Fails to comply with requirements under sub. (4) for continued enrollment.

3. Violates sub. (8).

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

Note: If a herd is suspended from enrollment in the herd monitoring program, no live farm-raised deer may be moved from that herd to another herd. See ss. ATCP 10.66 (2) and 11.56 (1).

(8) HERD ADDITIONS.

(a) No person may add a farm-raised deer to a herd monitored under this section unless one of the following applies:

1. The farm-raised deer originates from another herd in this state that is monitored under this section.

2. The farm-raised deer is imported in compliance with s. ATCP 11.55, and originates from a herd that is monitored under a state-recognized chronic wasting disease monitoring program that complies with federal uniform methods and rules.

(b) A person shall notify the department whenever that person adds, to a herd monitored under this section, a farm-raised deer originating from a herd that has been monitored under par. (a) for a shorter period than the receiving herd. The person shall give the notice within 14 days after the person adds the farm-raised deer to the monitored herd. The notice shall identify all of the following:

1. The official individual identification of the farm-raised deer.

2. The date on which the farm-raised deer was added to the herd.

3. The keeper and location of the farm-raised deer's herd of origin, and the date on which that herd was accepted into a monitoring program under par. (a).

(c) If a person adds a farm-raised deer to a herd that is monitored under this section, the entire herd is deemed to be enrolled in the monitoring program under this section beginning on the later of the following dates:

1. The date specified in sub. (3).

2. The date on which the farm-raised deer's herd of origin was enrolled in a monitoring program under par. (a).

(9) NEW HERD; ENROLLMENT DATE. If a person assembles a new herd consisting solely of farm-raised deer from source herds that are already enrolled in a monitoring program under sub. (8) (a), the new herd is enrolled in the monitoring program under this section on the latest enrollment date assigned to any of those source herds if all the following apply:

(a) The herd keeper submits an enrollment application under sub. (2) within 90 days after he or she acquires the first farm-raised deer to create the new herd, and the department accepts that enrollment application.

(b) The herd keeper complies with this section.

(c) The herd keeper includes the following information in the initial herd census report under sub. (2) (d), in addition to the information required under sub. (2) (d):

1. The official individual identification of every farm-raised deer in the new herd, including those less than one year old.

2. The source herd from which each farm-raised deer in the new herd originated, including the location of the source herd and the name and address of the source herd keeper.

3. The date on which each farm-raised deer was added to the new herd.

(d) The herd keeper tests, for chronic wasting disease, any farm-raised deer in the new herd that dies or is killed before the herd is accepted into the chronic wasting disease monitoring program under this section. This paragraph does not apply to a farm-raised deer that is less than 16 months old.

(e) The herd is not kept at a location where a prior herd was depopulated because of exposure to or infection with chronic wasting disease.

History: CR 02-078: cr. Register May 2003 No. 569, eff. 6-1-03; CR 03-121: r. and recr. (4) (b) Register September 2004 No. 585, eff. 10-1-04.

Subchapter VIII — Fish Diseases

ATCP 10.73 Fish farms. (1) DEFINITIONS. In this section:

(a) "Certified fish inspector" means any of the following:

1. An individual who is currently certified by the American fisheries society as a fish health inspector or fish pathologist.

2. An individual whom a state authorizes and the department approves to certify, on behalf of that state, the health of fish in that state.

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

(b) "Commingle" means kept or brought in contact with other fish or fish eggs in any environment which permits direct contact between fish or use of the same water system.

(c) "Fish farm" means a facility at which a person hatches fish eggs or holds live fish.

(d) "Food processing plant" means a facility licensed under s. 97.29, Stats.

(e) "Individual" means a natural person.

(f) "Operator" means a person who owns or controls a fish farm. "Operator" includes the operator's employees and agents.

(g) "Ornamental fish" means goldfish, koi, tropical freshwater fish that cannot survive in temperatures below 38°F, saltwater fish and other fish which the department designates in writing.

Note: You may obtain a current list of fish designated as "ornamental fish" by contacting the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911
Phone: (608) 224-4872

(h) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust, the state of Wisconsin or its agencies, or other organization or entity.

(i) "Retail food establishment" means a facility licensed under s. 97.30, Stats.

(j) "Restaurant" means a facility licensed under s. 254.64, Stats.

(k) "Salmonid" means fish or fish eggs of the family that includes trout, salmon, grayling, char, Dolly Vardon, whitefish, cisco and inconnu.

(L) "Self-contained fish rearing facility" has the meaning given in s. 29.001 (76), Stats.

(m) "Untreated water" means water that has not been rendered free of pathogens by a method approved by the department.

(n) "Waters of the state" has the meaning given in s. 281.01 (18), Stats.

(2) REGISTRATION CERTIFICATE REQUIRED. Except as provided in sub. (3), a person operating a fish farm for any of the following purposes shall obtain a registration certificate for that fish farm:

(a) Hatching fish eggs or holding live fish for any of the following purposes:

1. Sale or distribution.
2. Introduction into the waters of the state.
3. Fishing.
4. Use as bait or fertilizer.
5. Use as human food or animal feed.
6. Education, demonstration or research.

(b) Holding live fish or fish eggs owned by another person.

Note: A Wisconsin Department of Natural Resources (DNR) fish stocking permit is not needed to stock fish into a fish farm registered under sub. (2). However, a DNR stocking permit is needed to stock fish into the waters of the state. (See s. 29.736, Stats.)

A DNR sport fishing license is not required to fish within a registered fish farm. Persons fishing at a registered fish farm do not need to comply with season, size or bag limits. (See s. 29.001 (27), Stats.)

Toxicants required for fish farming operations may be used in self-contained fish rearing facilities if there is no discharge from the facility, or if the discharge of the chemical is allowed under a Wisconsin Pollutant Discharge Elimination System (WPDES) permit. Otherwise, a DNR aquatic pesticide use permit is required. (See ss. 29.088 (2) (g), 29.601 (5) (b) and 283.31, Stats.) Pesticide applications must comply with ch. ATCP 29, Wis. Adm. Code, administered by the department of agriculture, trade and consumer protection. There may be other federal, state, or local regulations pertaining to the use of these toxicants.

(3) EXEMPTIONS. A person may do any of the following without a registration certificate under sub. (2):

(a) Hold, rear, sell or distribute live ornamental fish, or hatch the eggs of ornamental fish, unless the ornamental fish or fish eggs are commingled with non-ornamental fish or fish eggs or are reared for bait, human food or animal feed.

(b) Hold live bait fish under a bait dealer license issued by the state of Wisconsin department of natural resources under s. 29.509, Stats.

(c) Hold or rear live fish, or hatch fish eggs, in a fully enclosed building solely for purposes of display or research within that building, provided that no untreated water used to hold those fish or fish eggs is discharged to waters of the state.

(d) Exhibit live fish in a public forum for not more than 15 days in a calendar year, or for a longer period of time which the department authorizes in writing for a specific exhibit.

(e) Hold live fish or fish eggs for not more than 30 days at a food processing plant, retail food establishment or restaurant pending slaughter or sale to consumers at that facility, provided that the facility does not discharge to waters of the state any untreated water used to hold or process those fish or fish eggs.

(f) Transport live fish or fish eggs to or from a fish farm.

(4) TYPE 1 OR TYPE 2 REGISTRATION CERTIFICATE. (a) Except as provided in par. (b), a person required to hold a fish farm registration certificate under sub. (2) may hold either a type 1 or type 2 registration certificate.

(b) A person may not sell or distribute live fish or fish eggs from a fish farm without a type 2 registration certificate, except that a person holding a type 1 registration certificate may do any of the following:

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

2. Sell or distribute live fish or fish eggs to a food processing plant, retail food establishment or restaurant at which the fish or fish eggs are held for not more than 30 days pending slaughter or sale to consumers at that facility, provided that the facility does not discharge to waters of the state any untreated water used to hold or process those fish or fish eggs.

3. Move live fish between type 1 fish farms which that person operates in this state.

Note: A person holding a type 1 registration certificate may, at any time during the registration year, convert that certificate to a type 2 certificate by paying the additional fee under sub. (8) and complying with health certification requirements under sub. (14).

(5) ANNUAL EXPIRATION DATE. A fish farm registration certificate under sub. (2) expires on December 31 of the calendar year for which it is issued.

(6) PERSONS OPERATING 2 OR MORE FISH FARMS. A person who operates 2 or more fish farms shall obtain a separate registration certificate under sub. (2) 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. (7) and paying a single annual fee under sub. (8). There is no additional charge for additional fish farms. A registration certificate is not transferable between persons or locations.

Note: A person registering 2 or more fish farms may choose to register those fish farms as type 1 or type 2 fish farms. The applicant submits only one annual application and pays only one annual fish farm registration fee. There is no additional charge to register additional fish farms. If any of the fish farms is registered as a type 2 fish farm, the applicant must pay the type 2 registration fee.

(7) APPLYING FOR A REGISTRATION CERTIFICATE. To obtain or renew a fish farm registration certificate under sub. (2), a fish farm operator shall file an application with the department. The operator shall file an application on a form provided by the department. An operator may, by filing a single application form, obtain registration certificates for 2 or more fish farms. The application shall include all of the following:

(a) The name, address and telephone number of the fish farm operator.

(b) The location of each fish farm for which the operator seeks a registration certificate. The location shall include the county, township, section number and fire number of the fish farm.

(c) For each fish farm under par. (b), a statement indicating whether the operator seeks a type 1 or type 2 registration certificate.

(d) The fee required under sub. (8).

(e) The name, address and telephone number of the individual responsible for administering each of the fish farms under par. (b) on behalf of the operator, if the individual administering that fish farm is not the operator.

(f) The species of fish hatched or kept at each fish farm under par. (b).

(g) A description of each fish farm under par. (b), including fish farm facilities and activities.

(h) A copy of each health certificate required under sub. (13) for a type 1 fish farm or under sub. (14) for a type 2 fish farm. If an operator is registering a fish farm for the first time, the department may issue a registration certificate before the operator files a health certificate, provided that the operator obtains and files the required health certificate within 30 days after the department issues the registration certificate or within 30 days after the operator stocks fish at the fish farm.

(i) Other relevant information required by the department.

Note: You may obtain a registration form by contacting the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911
Phone: (608) 224-4872

A fish farm operator may also need certain permits from the Wisconsin department of natural resources (DNR). Contact DNR to find out about DNR permit requirements.

(8) REGISTRATION FEES. (a) Except as provided in par. (b), an operator shall pay the following annual fee to obtain registration certificates for one or more fish farms:

1. A total fee of \$25 if the fish farms are all type 1 fish farms.

2. A total fee of \$50 if any of the fish farms is a type 2 fish farm.

(b) The following persons are exempt from registration fees under this subsection:

1. A bona fide scientific research organization that is operating a fish farm solely for the purpose of scientific research.

2. A primary or secondary school.

3. The state of Wisconsin and its agencies.

(c) A fish farm operator shall pay the full annual registration fee for a fish farm registered for less than a full calendar year.

(d) An applicant for an annual fish farm registration certificate under sub. (2) shall pay, in addition to the annual registration fee prescribed by this subsection, a surcharge equal to the amount of that fee if the department determines that, within 365 days prior to submitting an application, the applicant operated a fish farm without a registration certificate in violation of sub. (2) or (4) (b). Payment of the surcharge does not relieve the applicant of any other civil or criminal penalty or liability that may result from the violation, nor does it constitute evidence of a violation.

Note: Under s. 93.21 (5) (b), Stats., a person who files a late application for renewal of a registration certificate must pay, in addition to the fee prescribed under sub. (8), an additional fee equal to 20 percent of that registration fee.

(9) ACTION ON REGISTRATION APPLICATION. The department shall grant or deny a registration application within 30 days after the applicant files a complete application under sub. (7).

(10) DENYING, SUSPENDING OR REVOKING A REGISTRATION CERTIFICATE. The department may deny, suspend or revoke a fish farm registration certificate for cause, including any of the following:

- (a) Filing an incomplete or fraudulent application, or misrepresenting any information on an application.
- (b) Violating applicable provisions of ch. 95, Stats., this chapter, or ch. ATCP 11.
- (c) Violating the terms of the registration certificate.
- (d) Preventing a department employee from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- (e) Physically assaulting a department employee while the employee is performing his or her official duties.
- (f) Refusing or failing, without just cause, to produce records under sub. (11) or respond to a department subpoena.
- (g) Paying a registration fee with a worthless check.

Note: The denial, suspension or revocation of a registration certificate is subject to a right of hearing under ch. 227, Stats., and ch. ATCP 1, Wis. Adm. Code. The department will not deny registration to a new owner of a fish farm merely because ownership has changed.

(11) RECORDKEEPING. (a) A fish farm operator shall keep all of the following records related to fish or fish eggs which the operator ships from or receives at the fish farm:

- 1. The name, address, and fish farm registration number, if any, of the person from whom the operator received, or to whom the operator delivered fish or fish eggs.
- 2. The date on which the operator received or delivered the fish or fish eggs.
- 3. The location at which the operator received or delivered the fish or fish eggs.
- 4. The size or class, quantity and species of fish or fish eggs received or delivered.

(b) An operator required to keep records under par. (a) shall retain those records for at least 5 years and shall make them available to the department, upon request, for inspection and copying.

(12) FISH SOURCE. (a) No person selling or distributing fish or fish eggs may misrepresent, directly or by implication, the source or disposition of those fish or fish eggs.

(b) A person transporting fish or fish eggs from a fish farm shall have documentary evidence showing that the person obtained those fish from that fish farm. Evidence may include a bill of sale, bill of lading, import permit, health certificate, certificate of veterinary inspection or other document which identifies the fish farm.

(13) TYPE 1 FISH FARM; ANNUAL HEALTH CERTIFICATE. (a) No person may obtain a type 1 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless one of the following applies:

1. A certified veterinarian or certified fish inspector has issued a health certificate for that fish farm not earlier than January 1 of the preceding calendar year.

2. A certified veterinarian or certified fish inspector has issued a health certificate, not earlier than January 1 of the preceding calendar year, for each fish farm from which the fish farm operator received fish or fish eggs in the preceding calendar year.

(b) Health certificates issued under par. (a) shall comply with the same requirements that apply to health certificates issued for type 2 fish farms under sub. (14).

(c) A fish farm operator shall include copies of all health certificates required under par. (a) with the operator's application for an annual fish farm registration certificate under sub. (7).

(14) TYPE 2 FISH FARM; ANNUAL HEALTH CERTIFICATE. (a) No person may obtain a type 2 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless a certified veterinarian or certified fish inspector issues a health certificate for that fish farm not earlier than January 1 of the preceding calendar year. The certified veterinarian or certified fish inspector shall issue the health certificate on a form provided by the department, based on a personal inspection of the fish farm. The certi-

fied veterinarian or certified fish inspector shall use inspection, sampling and diagnostic methods specified by the department on the certification form.

Note: To obtain a health certification form, contact the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911
Phone: (608) 224-4872

(b) A health certificate under par. (a) shall certify all of the following:

- 1. That fish at the fish farm are free of visible signs of infectious or contagious disease.
- 2. That salmonids at the fish farm are free of whirling disease (*Myxobolus cerebralis*, or WD), if any salmonids are hatched or kept at the fish farm.
- 3. That fish at the fish farm are free of other diseases, if any, which the department specifies on the certification form.

(c) A certified veterinarian or certified fish inspector who issues a health certificate under this subsection shall file the original certificate with the department, and shall provide at least 2 copies to the fish farm operator. A fish farm operator shall include a copy of the certificate with the operator's application for an annual fish farm registration certificate under sub. (7).

Note: A certification form which specifies disease inspection, sampling and diagnostic procedures under sub. (14) (a), or additional disease certification requirements under sub. (14) (b) 3., constitutes an order under s. 93.07 (10), Stats., which is reviewable under ch. 227, Stats., and ch. ATCP 1 unless the department has adopted those requirements by rule. If a health certification does not comply with instructions on the certification form, the certification is invalid.

History: Emerg. cr. eff. 12-28-98; cr. Register, May, 1999, No. 521, eff. 6-1-99; cr. (1) (am), am. (1) (k), (13) (a) 1., 2., (14) (a) and (c), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renum. from ATCP 10.68 Register May 2003 No. 569, eff. 6-1-03.

Subchapter IX — Other Diseases

ATCP 10.81 Brucellosis-free herd; goats. (1) INITIAL CERTIFICATION. The department may certify a herd of goats as a "certified brucellosis-free herd" if the herd owner provides proof that all animals over 6 months of age in the herd have been found negative for brucellosis in 2 consecutive brucellosis tests. The tests shall be conducted at a state or federally approved laboratory not less than 10 nor more than 14 months apart.

(2) REVOCATION OF CERTIFICATE. The department shall, by written notice, summarily revoke a certified brucellosis-free herd certification if any goat in the herd is found positive for brucellosis in any test approved by the department. A revocation notice shall be issued by the state veterinarian, and shall be served on the herd owner or agent. A person adversely affected by a revocation notice may request a hearing before the department, but a request for hearing does not stay the revocation notice.

(3) ANNUAL RECERTIFICATION. The department may annually recertify a herd of goats as a certified brucellosis-free herd if the herd owner provides proof that all animals in the herd over 6 months of age have been found negative for brucellosis in an approved test performed on a herd sample taken not later than 14 months after the last annual certification date. If testing for recertification is not completed within 14 months after the last annual certification date, certification expires. If certification expires, the herd may not be recertified except under sub. (1).

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. (4) and (5), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renum. from ATCP 10.61 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.82 Tuberculosis-free herd; goats. (1) INITIAL CERTIFICATION. The department may certify a herd of goats as an accredited tuberculosis-free herd if the herd qualifies under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(2) MAINTAINING CERTIFICATION. To maintain an accredited tuberculosis-free herd certification, a herd owner shall comply

with applicable requirements under the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999.

(3) SUSPENDING OR REVOKING CERTIFICATION. (a) The department may summarily suspend or revoke an accredited tuberculosis-free herd certification if any of the following occurs:

1. A goat in the herd tests positive for tuberculosis.
2. The herd owner fails to comply with sub. (2).

(b) The state veterinarian may issue a summary suspension or revocation notice under par. (a). The notice shall state the reason for the suspension or revocation. A herd owner affected by a suspension or revocation may request a hearing before the department under ch. 227, Stats. A request for a hearing does not automatically stay the summary suspension or revocation.

Note: Copies of the USDA bovine tuberculosis eradication uniform methods and rules dated January 22, 1999 (APHIS publication 91-45-011) are on file with the department, the secretary of state and the revisor of statutes. Copies may be obtained from:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708-8911

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (5) (b), (c), Register, February, 1996, No. 482, eff. 3-1-96; r. and recr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renun. from ATCP 10.62 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.83 Johne's disease in goats; herd classification; disclosure. (1) **DEFINITIONS.** In this section:

(a) "Anniversary date" means, for any herd of goats, one of the following:

1. The month and day on which samples are collected for the first annual herd test conducted after July 1, 2000, if no annual herd test was conducted within one year prior to that date. If the first annual herd test conducted after July 1, 2000, is a split herd test, the "anniversary date" is the month and day on which samples are collected from the last group of animals included in the split herd test.

2. The month and day between July 1, 1999, and June 30, 2000, on which samples were collected for an annual herd test, if an annual herd test was conducted within that period.

3. The month and day on which samples were taken to complete the first split herd test under a plan approved by the department under sub. (5) (b).

(b) "Annual herd test" means an annual paratuberculosis test conducted on a herd of goats under this section. An annual herd test includes a random herd test, a split herd test or a whole herd test.

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

(c) "Herd" means a herd of goats.

(d) "Paratuberculosis" means the infectious and communicable disease of domestic ruminants, commonly known as Johne's disease, which is caused by *Mycobacterium paratuberculosis*.

(e) "Random herd test" means a paratuberculosis test performed under sub. (5) (b).

(f) "Split herd test" means a herd test conducted under sub. (5) (c).

(g) "Test eligible animals" means all goats 18 months of age or more.

(h) "Whole herd test" means a paratuberculosis test performed under sub. (5) (a).

(1m) IMPLIED WARRANTY. Section 95.195, Stats., covers paratuberculosis in goats and applies to sales of goats.

(2) EXEMPTION FROM IMPLIED WARRANTY. (a) The implied warranty under s. 95.195, Stats., does not apply to a sale of goats if the seller discloses all the following to the buyer in writing, prior to sale:

1. The current herd classification, under sub. (3), of the herd from which the goats are being sold.

2. That the goats are paratuberculosis reactors under sub. (9), if that is the case.

(b) The implied warranty under s. 95.195, Stats., does not apply to goats sold directly to slaughter.

(3) HERD CLASSIFICATION. (a) *Johne's preventive management level A.* The department shall classify a herd as "Johne's preventive management level A" if an annual herd test reveals no paratuberculosis reactors.

Note: Animals from a herd classified "Johne's preventive management level A" normally have the lowest risk of transmitting Johne's disease (paratuberculosis). The risk is normally reduced with each additional year that the herd maintains the level A classification. However, no herd classification ensures that an animal is free of Johne's disease.

(b) *Johne's preventive management level B.* The department shall classify a herd as "Johne's preventive management level B" if at least 5% of the animals tested in an annual whole herd test or split herd test, or in a follow-up whole herd test under par. (d) 1., are paratuberculosis reactors.

(c) *Johne's preventive management level C.* The department shall classify a herd as "Johne's preventive management level C" if at least 5% but not more than 15% of the animals tested in an annual whole herd test or split herd test, or in a follow-up whole herd test under par. (d) 1., are paratuberculosis reactors.

(d) *Johne's preventive management level D.* The department shall classify a herd as "Johne's preventive management level D" if any of the following apply:

1. A random herd test reveals one or more paratuberculosis reactors, unless the department reclassifies the herd under par. (b) or (c) based on a follow-up whole herd test.

2. More than 15% of the animals tested in a whole herd test or a split herd test are paratuberculosis reactors.

(e) *Maximum risk for Johne's disease.* Every herd in this state, and every herd from which goats are sold in this state, is automatically classified "maximum risk for Johne's disease" unless one of the following applies:

1. The department classifies that herd under pars. (a) to (d). If the owner of the classified herd fails to complete an annual herd test within the time required under sub. (5), that classification expires and the herd is automatically classified "maximum risk for Johne's disease" until the department reclassifies the herd under pars. (a) to (d).

2. The department has classified that herd within one year prior to July 1, 2000. If the owner of the classified herd fails to complete an annual herd test within the time required under sub. (5), the classification expires and the herd is automatically classified "maximum risk for Johne's disease" until the department reclassifies the herd under pars. (a) to (d).

Note: The herd classifications under pars. (a) to (e) are arranged from most desirable (a) to least desirable (e). "Maximum risk for Johne's disease" is the least desirable herd classification, because it signifies that the herd owner does not have an annual paratuberculosis testing program. A person buying goats from such a herd faces an unknown, but substantial, risk that the goats are infected with Johne's disease.

(f) *Classification to include year.* A herd classification under pars. (a) to (d) shall indicate the first year from which the herd has continuously held that classification.

(4) COMMINGLED GOATS; CLASSIFICATION. (a) Except as provided in par. (c), goats added to a herd from a herd with a less desirable classification under sub. (3) retain that less desirable herd classification for 120 days after being added but do not affect the classification of the herd to which they are added.

(b) Goats added to a herd from a herd with a more desirable classification are immediately reclassified to the less desirable classification of the herd to which they are added.

(c) If goats from herds with different classifications under sub. (3) are temporarily assembled for sale or shipment, the least desirable classification assigned to any of those source herds automatically applies to the temporarily assembled herd.

(d) Goats from herds classified as "Johne's preventive management level A," "Johne's preventive management level B," "Johne's preventive management level C," or "Johne's preventive management level D" shall be classified as "Johne's preventive management level D" until the department reclassifies the herd under pars. (a) to (d).

management level D" that are sent by their owners to a consignment sale do not constitute a temporarily assembled herd under par. (c), except that animals which are allowed to have direct contact with each other for more than 24 hours constitute a temporarily assembled herd.

(5) **ANNUAL HERD TEST.** An annual herd test may be any of the following:

(a) *Whole herd test.* A whole herd test is performed on all test eligible animals in the herd. All samples for the whole herd test shall be collected on the same day or on consecutive days. Samples shall be collected on the anniversary date under sub. (1) (a), or within 2 months before or after that date.

(b) *Random herd test.* A random herd test is performed on a group of test eligible animals randomly selected from the test herd by the person who collects the test samples under sub. (6). The randomly selected group shall include at least 30 test eligible animals, or at least 10% of the test eligible animals in the herd, whichever group is larger. All samples for a random herd test shall be collected on the same day. Samples shall be collected on the anniversary date under sub. (1) (a), or within 2 months before or after that date.

Note: A herd with less than 30 test eligible animals is not eligible for a random herd test. The department may not classify a herd as "Johne's preventive management level B" or "Johne's preventive management level C" based on a random herd test. If a random herd test reveals one or more reactor animals, the herd is classified as "Johne's preventive management level D" until the herd owner completes a follow-up whole herd test. See sub. (3) (d) 1.

(c) *Split herd test.* A split herd test is performed, over the course of not more than 12 months, on all test eligible animals in a herd. A split herd test shall comply with all the following requirements:

1. The department shall approve a herd testing plan before any animals are tested. The department shall grant or deny approval, in writing, within 30 days after the herd owner submits a proposed testing plan to the department.

2. All testing shall be completed according to the plan approved by the department.

3. All test eligible animals in the herd shall be tested at least once during the 12 month period ending on the herd's anniversary date.

(6) **COLLECTING TEST SAMPLES.** Annual herd test samples shall be collected by a certified veterinarian, or by an employee of the department or the federal bureau. The person who collects an annual herd test sample shall do all the following:

(a) Determine the animals to be tested under sub. (5).

(b) Determine the type of test to be performed under sub. (7).

(c) Collect an appropriate sample from each test animal, based on the type of test to be performed under sub. (7).

(d) Identify each sample with the official individual identification of the animal from which it was collected, and the date on which it was collected.

(e) Transmit the test samples to the laboratory testing those samples under sub. (7).

Note: A herd owner may have animals tested for Johne's disease at any time. The department will not use the test results to classify the tested herd under this section unless the test complies with this section and the herd owner asks the department to classify the herd.

This section does not prohibit a person from collecting test samples from animals that are too young to be "test eligible" under ATCP 10.83(1)(g), but the department will not consider test results from those animals when determining the appropriate herd classification. To facilitate review of results, the person collecting test samples should separate "test eligible" from "non-test eligible" samples, and should prepare separate test submission forms for each category.

(7) **LABORATORY TESTING.** Annual herd test samples shall be tested by the department, the federal bureau, or a laboratory approved by the department or the federal bureau. The laboratory shall use one of the following tests:

(a) The fecal culture test.

(b) Another test approved by the department.

(8) **TEST RESULTS.** A laboratory performing tests under sub. (7) shall report the test results to the department within 10 days. If the herd owner asks the department to classify a herd based on

the results of an annual herd test, the department shall classify the herd under sub. (3) within 30 days after it receives both the test results and the herd owner's request. The department shall issue a classification notice under sub. (10) to the herd owner.

Note: Under s. ATCP 10.02 and 10.03, a veterinarian or laboratory that diagnoses or finds evidence of Johne's disease must report that diagnosis or finding to the department within 10 days, in writing or by telefax.

(9) **PARATUBERCULOSIS REACTORS.** An animal is a paratuberculosis reactor if any of the following apply:

(a) The animal tests positive on the fecal culture test.

(b) The animal tests positive on any other test which the department approves and deems conclusive.

(10) **NOTICE TO HERD OWNER.** Whenever the department classifies a herd under sub. (3) based on an annual herd test, or based on a follow-up whole herd test under sub. (3) (d) 1., the department shall promptly provide the herd owner with all the following information in writing:

(a) *Individual animal test results.* Individual test results for each animal included in the herd test. Test results shall be identified with each animal's official individual identification.

(b) *Herd classification.* The herd classification under sub. (3). The classification notice shall include the effective date and expiration date of the classification. A classification takes effect on the effective date specified in the notice, and supersedes any prior classification.

(11) **REACTOR IDENTIFICATION.** (a) No person may move a paratuberculosis reactor under sub. (9) unless a certified veterinarian first identifies that reactor with a permanent paratuberculosis reactor identification approved by the department.

(b) No person may sell a paratuberculosis reactor under sub. (9) unless both of the following apply:

1. A certified veterinarian first identifies that reactor with a permanent paratuberculosis reactor identification approved by the department.

2. The seller first discloses to the prospective buyer, in writing, that the animal is a paratuberculosis reactor unless the reactor is sold directly to slaughter.

(c) Within 30 days after an animal tests positive for paratuberculosis, a certified veterinarian shall identify the reactor with a paratuberculosis reactor identification approved by the department.

(12) **HERD VACCINATION.** No person may vaccinate goats for paratuberculosis except under a herd agreement with the department. The department may not authorize vaccination in any herd in which the percentage of reactors in the last whole herd test or split herd test was less than 7%, unless special circumstances warrant vaccination in that herd.

(13) **MISREPRESENTING HERD CLASSIFICATION.** No seller may misrepresent the classification, under sub. (3), of the herd from which goats are being sold. A seller who misrepresents a herd classification is not exempt from the implied warranty under s. 95.195, Stats., and is subject to possible penalties under s. 95.99, Stats.

(14) **DEPARTMENT DISCLOSURE OF HERD CLASSIFICATION.** The department may disclose a herd classification under sub. (3) with the written authorization of the herd owner.

Note: See s. 95.232, Stats.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and recr. Register, September, 1999, No. 525, eff. 7-1-00; emerg. cr. (1m), eff. 7-1-00; cr. (1) (br) and (1m), am. (6) (intro.), (11) (a), (b) 1. and (c), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renum. from ATCP 10.63 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.84 Brucella ovis-free flock; sheep. (1) **INITIAL CERTIFICATION.** The department may certify a flock of sheep as "brucella ovis-free" if the flock owner provides proof that all rams in the flock over 6 months of age have been found negative for brucella ovis in 2 successive enzyme linked immune serum assay (ELISA) tests, or other tests approved by the department. The tests shall be conducted not less than 45 days nor more than 60 days apart.

(2) **REVOCATION OF CERTIFICATE.** When any test of a brucella ovis-free flock discloses that any ram in the flock is positive for brucella ovis, the certificate shall be summarily revoked by written notice to the herd owner or agent. The revocation notice shall be signed by the state veterinarian. A person adversely affected by a revocation notice may request a hearing before the department, but a request for hearing does not stay the revocation notice. If certification is revoked, the herd may not be recertified except under sub. (1).

(3) **HANDLING REACTORS.** If any brucella-ovis reactors are disclosed in a flock, all reactors shall be segregated, quarantined and castrated under supervision of the department, or sent to slaughter under a permit issued by the department or an accredited veterinarian.

(4) **ANNUAL RECERTIFICATION.** The department may annually recertify a flock of sheep as a brucella ovis-free flock if all rams in the flock test negative for brucella ovis not more than 14 months after the last annual certification date. If testing for recertification is not completed within 14 months after the last annual certification date, certification expires. If certification expires, the herd may not be recertified except under sub. (1).

(5) **STATUS OF INDIVIDUAL ANIMALS.** No ram qualifies as a member of a brucella ovis-free flock unless one or more of the following apply:

- (a) The ram was included in the initial certification under sub. (1).
- (b) The ram originates from another brucella ovis-free flock.
- (c) The ram has been in the flock for at least 60 days, and was in the flock at the time of the last flock test for brucella-ovis.
- (d) The ram was born to a flock member.

(6) **FLOCK ADDITIONS.** No ram may be added to a brucella ovis-free flock unless one or both of the following apply:

- (a) The ram originates from another brucella ovis-free flock, and was included in the last flock test of that flock.
- (b) The ram tests negative for brucella ovis within 30 days before entering the brucella ovis-free flock, and again within 45 to 60 days after entering the flock.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; CR 02-078: renun. from ATCP 10.64 Register May 2003 No. 569, eff. 6-1-03.

Subchapter X — Enforcement

ATCP 10.91 Quarantines. (1) **QUARANTINE ORDER.** (a) The department may quarantine captive animals in this state for any of the following purposes:

- 1. To prevent, suppress, control or eradicate contagious, infectious or communicable diseases that may affect animals, or that may be transmitted from animals to humans.
- 2. To prevent the movement or commingling of animals pending further testing, diagnosis, or traceback or investigation related to suspected disease.

(b) The department may issue a quarantine order under par. (a) on a summary basis, without prior notice or hearing.

(c) No person may move any animal in violation of a quarantine order under par. (a), or fail to comply with the terms and conditions of a quarantine order.

(2) **SERVICE OF NOTICE.** A quarantine order under this section shall be served upon a person having custody or control of the quarantined animals, or shall be posted on the premises affected by the quarantine order. A quarantine order may be served by any of the following methods:

- (a) Personal service.
- (b) Certified mail.
- (c) Posting a copy of the order at 2 conspicuous places on the premises affected by the quarantine.

(3) **PROOF OF SERVICE.** Service of a quarantine order may be proved by affidavit or by certified mail return receipt.

(4) **CONTENTS OF ORDER.** A quarantine order shall contain the following information:

(a) The name and address of a person having custody or control of the quarantined animals, if known.

(b) A description of the animals affected by the quarantine.

(c) A description of the premises affected by the quarantine.

(d) The reason or justification for the quarantine.

(e) All terms and conditions applicable to the quarantine.

(f) Notice that persons adversely affected by the quarantine may request a hearing to review the quarantine order.

(5) **DURATION OF QUARANTINE.** A quarantine remains in effect until a written notice of release is issued by the department, unless the quarantine is set aside after review under sub. (6).

(6) **REVIEW OF QUARANTINE.** A person adversely affected by a quarantine may, within 30 days after the quarantine order is issued, request a hearing before the department to review the quarantine. The department shall conduct an informal hearing as soon as reasonably possible, and not later than 10 days after receiving a request for hearing. If the matter is not resolved after informal hearing, the person requesting the hearing may seek a formal hearing under ch. 227, Stats. A request for hearing does not stay a quarantine order.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1), Register, January, 1994, No. 457, eff. 2-1-94; am. (1), Register, December, 1996, No. 492, eff. 1-1-97; CR 02-078: renun. from ATCP 10.70 Register May 2003 No. 569, eff. 6-1-03; CR 03-121: r. and recr. (1) Register September 2004 No. 585, eff. 10-1-04.

ATCP 10.92 Temporary animal hold order.

(1) **DEPARTMENT MAY ISSUE.** The department may issue a temporary animal hold order whenever the department has reason to believe that animals may have been illegally imported, 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 or disease exposure. The department may, for good cause, extend the animal hold order for up to 90 days.

(2) **CONTENTS.** A temporary animal hold order shall contain the following information:

- (a) The name and address of the person having custody or control of the animals covered by the order, if known.
- (b) A description of the animals covered by the order.
- (c) A description of the premises where the animals are to be held.
- (d) The reason or justification for the order.
- (e) The duration of the order, and all terms and conditions applicable to the order.
- (f) Notice that a person adversely affected by the order may request a hearing under sub. (6).

(3) **SERVICE.** The department shall serve a temporary animal hold order in one of the following ways:

- (a) Delivering the order, in person or by certified mail, to a person having custody or control of the animals covered by the order.
- (b) Posting the order at 2 conspicuous places on the premises where the animals are kept.

(4) **PROOF OF SERVICE.** The department may prove service of a temporary animal hold order by means of an affidavit or certified mail return receipt.

(6) **REVIEW OF ANIMAL HOLD ORDER.** A person adversely affected by a temporary animal hold order may request a hearing before the department to review the order. The department shall conduct an informal hearing as soon as reasonably possible, and not later than 10 days after receiving a request for hearing. If the matter is not resolved after informal hearing, the person requesting the hearing may seek a formal hearing under ch. 227, Stats. A request for hearing does not automatically stay a temporary animal hold order.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078: renun. from ATCP 10.705 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.93 Destruction or removal of animals illegally imported. (1) SUMMARY ACTION.

The department may

summarily order the destruction or removal from this state of any animal imported into this state if either of the following applies:

(a) The owner or custodian of the animal fails to produce a valid certificate of veterinary inspection, if a certificate is required.

(b) The animal is imported in violation of ch. ATCP 11, or in violation of any permit condition under ch. ATCP 11.

(2) SERVICE OF NOTICE. An order under sub. (1) shall be served upon a person having custody or control of the animal affected by the order. The order may be served in person or by certified mail. Service may be proved by affidavit or by certified mail return receipt.

(3) CONTENTS OF ORDER. An order under sub. (1) shall contain all of the following information:

(a) The name and address of the person having custody or control of the animals, if known.

(b) A description of the animals affected by the order.

(c) The reason or justification for the order.

(d) A reasonable deadline for compliance with the order.

(e) Notice that persons adversely affected by the order may request a hearing to review the order.

(4) REVIEW OF ORDER. A person adversely affected by an order under sub. (1) may, within 30 days after receiving the order, request a hearing before the department to review the order. If a hearing is requested, the department shall conduct an informal hearing as soon as reasonably possible, and not later than 10 days after receiving the request for hearing. If the matter is not resolved after informal hearing, the person requesting the hearing may seek a formal hearing before the department under ch. 227, Stats. A request for hearing under this subsection does not postpone the

deadline for compliance with the order unless the deadline is postponed by further order of the department.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; am. (1) (a), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078; renum. from ATCP 10.71 Register May 2003 No. 569, eff. 6-1-03.

ATCP 10.94 Prohibited conduct. (1) No person may:

(a) Fail to present an animal for any required disease test.

(b) Allow the sale, movement, or disposition of an animal before any required official test result for that animal is known.

(c) Misrepresent the disease status of any animal, or of the herd from which an animal originates.

(d) Sell or move any animal in violation of this chapter, or an order issued under this chapter.

(e) Remove, alter, or tamper with any form of official identification or official back tag.

(f) Import manure from slaughter plants or stock yards without first obtaining a permit from the department. The department shall grant or deny a permit request within 5 days after the department receives a complete permit application.

(g) Physically assault a department employee while that employee is performing his or her duties.

(h) Knowingly make any false statements to the department concerning any of the following:

1. The ownership, identification, age, vaccination status, test status, or health status of livestock.

2. The purchase, sale or movement of livestock.

(2) No veterinarian may fail to report any reportable disease to the department, as required by s. ATCP 10.02.

History: Cr. Register, December, 1990, No. 420, eff. 1-1-91; r. and. recr. (1) (d), cr. (1) (g) and (h), Register, November, 2000, No. 539, eff. 12-1-00; CR 02-078; renum. from ATCP 10.72 Register May 2003 No. 569, eff. 6-1-03.