



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 02-078

AN ORDER to repeal ATCP 10.65, 10.652 and 10.68; to renumber ATCP 10.01 (45) (j), 10.61, 10.62, 10.63 (title), (1) to (6) and (7) to (14), 10.64, 10.651, 10.66, 10.67, 10.673, 10.675, 10.70, 10.705, 10.71, 10.72, 11.01 (54) (j), 11.545 (1) (a) 2. and 12.01 (20) (j); to renumber and amend ATCP 10.63 (6) (note); to amend ATCP 10.01 (1) (a) and (b), (9m) (a) and (b), (14m) (a) and (b), (15) (a) and (b), (22m), (69m) (a) and (b), (69r) (a) and (b), 10.41 (1) (a) (intro.), (2) and (3), subchapter VII (title) of chapter ATCP 10, subchapter VIII (title) of chapter ATCP 10, 11.01 (1) (a) and (b), (12m) (a) and (b), (17m) (a) and (b), (18) (a) and (b), (29m), (42), (44), (45), (70m), (80m) (a) and (b), and (80r) (a) and (b), 11.02 (4) (f), 11.545 (1) (b) (intro.) and (d) and (3), 11.55 (2) (a) 1. and (4), 11.58 (2) (c), (6) (a) and (12) (a) 4., 11.60 (2) and (note), 12.01 (8w), (14), (16) and (17), and 12.03 (1) (note) and (5) (a) 3.; to repeal and recreate ATCP 11.545 (1) (c) and 11.56 (1) and (2); and to create ATCP 10.01 (19m) and (45) (j), 10.61, 10.66, 10.67, subchapter IX (title) of chapter ATCP 10, subchapter X (title) of chapter ATCP 10, 11.01 (22m) and (54) (j), 11.545 (1) (a) 2., 11.55 (1) (d) to (i), 11.56 (2) (note) and 12.01 (20) (j), relating to farm-raised deer and chronic wasting disease.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

05-30-2002 RECEIVED BY LEGISLATIVE COUNCIL.

06-21-2002 REPORT SENT TO AGENCY.

RNS:DLL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The definition of “chronic wasting disease registration tag” in s. ATCP 10.01 (19m) should be numbered s. ATCP 10.01 (15r), to maintain the alphabetical order of definitions; similarly, the definition of that term in s. ATCP 11.01 (22m) should be numbered s. ATCP 11.01 (18r). In addition, the word “which” should be replaced by the word “that” in both of these definitions, and the commas are not necessary. Finally, the rule does not create a definition of this term in ch. ATCP 12, although it uses the term in that chapter; a definition should be created, numbered s. ATCP 12.01 (2m).

b. SECTIONS 6, 33, and 55 of the rule change references to the statutory definition of “farm-raised deer” to conform with the new numbering created by 2001 Wisconsin Act 56. Note that the revised and renumbered statutory definition does not take effect until January 1, 2003. As a result, the new cross-references in this rule should have delayed effective dates of January 1, 2003, as well.

c. The creation of s. ATCP 10.61, currently in SECTION 20, should instead follow SECTION 13.

d. It appears that the second sentence of s. ATCP 10.61 (4) (c) should be incorporated into s. ATCP 10.61 (6) (b), rather than referring to that fee in two separate provisions.

e. The second sentence of both s. ATCP 10.66 (1) (a) and (b) are redundant with s. ATCP 10.66 (3) and (4) and so should be omitted.

f. Section ACTCP 10.67 (2) (intro.) refers to a form provided by the department. The department should include in the rule a note that complies with s. 1.09 (2), Manual.

g. The underscoring in s. ATCP 11.545 (1) (c) (intro.) should be omitted, since that provision is being repealed and recreated.

4. Adequacy of References to Related Statutes, Rules and Forms

This rule would repeal and recreate s. ATCP 11.56 (2). An earlier rule, Clearinghouse Rule 02-054, would create s. ATCP 11.56 (2) (g). Is the substance of s. ATCP 11.56 (2) (g) included in the repealed and recreated s. ATCP 11.56 (2)?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section ATCP 10.61 (4) (a) refers to medically significant separation of herds and adequate fencing and facilities. What constitutes "medically significant" and "adequate"? The rule should either define the terms or provide standards to make the requirements of the rule clear.

b. The rule does not set a deadline for submitting registration renewal applications under s. ATCP 10.61 (5). Since the rule makes it illegal to keep farm-raised deer without a current annual registration certificate and it requires the department to act on applications within 30 days of receipt, it would seem that a requirement that renewal applications be submitted 30 days before the expiration of the current registration (i.e., by December 1 each year) would prevent potential problems for the regulators and the regulated community alike.

c. The reference to the State of Wisconsin home page, in s. ATCP 10.61 (5) (note), is of little help in finding a form somewhere in the department's web site. Can this be replaced with a reference to the form itself or to a page that contains a link to the form?

d. The phrase "renewal or re-issuance" in s. ATCP 10.61 (6) (d) is redundant; s. ATCP 10.61 (5) uses just "renewal" and this provision should do the same.

e. Section ATCP 10.61 (9) (a) 3. should be numbered s. ATCP 10.61 (9) (a) 2.

f. Section ATCP 10.67 (2) (e) 1. and (4) (f) 1. refer to valid veterinarian-client and veterinarian-patient relationships. What makes these relationships "valid"? Is the word "valid" necessary in these provisions?

g. The second sentence of s. ATCP 10.67 (5) (f) (intro.) should refer to each farm-raised deer *that has left the herd*.

h. How long is a person required to maintain the records that are required under s. ATCP 10.67 (6)? The rule should specify this.

i. Section ATCP 11.02 (4) (f) should refer to the herd registration *number*.

j. Section ATCP 11.56 (2) (b) and (c) should begin with the phrase "A farm-raised deer that is . . ."

April 29, 2002

Deck
02-54

**PROPOSED ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION
ADOPTING AND AMENDING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection
2 proposes the following order to repeal ATCP 10.65, 10.652 and 10.68; to renumber
3 ATCP 10.01(45)(j), 10.61, 10.62, 10.63(title), (1) to (6) and (7) to (14), 10.64, 10.651,
4 10.66, 10.67, 10.673, 10.675, 10.70, 10.705, 10.71, 10.72, 11.01(54)(j), 11.545(1)(a)2.,
5 and 12.01(20)(j); to renumber and amend ATCP 10.63(6)(note); to amend ATCP
6 10.01(1)(a) and (b), (9m)(a) and (b), (14m)(a) and (b), (15)(a) and (b), (22m), (69m)(a)
7 and (b), (69r)(a) and (b), 10.41(1)(a)(intro.), (2) and (3), subchapter VII (title),
8 subchapter VIII (title), 11.01(1)(a) and (b), (12m)(a) and (b), (17m)(a) and (b), (18)(a)
9 and (b), (29m), (42), (44), (45), (70m), (80m)(a) and (b), and (80r)(a) and (b), 11.02(4)(f),
10 11.545(1)(b)(intro.), (1)(d) and (3), 11.55(2)(a)1. and (4), 11.58(2)(c), (6)(a) and
11 (12)(a)4., 11.60(2) and (note), 12.01(8w), (14), (16) and (17), and 12.03(1)(note) and
12 12.03(5)(a)3.; to repeal and recreate ATCP 11.545(1)(c) and 11.56(1) and (2); and to
13 create ATCP 10.01(19m) and (45)(j), 10.61, 10.66, 10.67, subchapter IX (title),
14 subchapter X (title), 11.01(22m) and (54)(j), 11.545(1)(a)2., 11.55(1)(d) to (i),
15 11.56(2)(note) and 12.01(20)(j); relating to farm-raised deer and chronic wasting disease.
16

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

Statutory Authority: ss. 93.07(1), 93.07(10) and 95.20, Stats.

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

maintains a breeding operation (from which live animals are shipped) and a separate hunting operation (from which no live animals are shipped) at that location.

Before DATCP registers 2 herds at the same location, DATCP must inspect the premises to determine whether the facilities and fencing are adequate to maintain "medically significant separation" of the herds. The herd owner must pay, in addition to the normal registration fees, a \$150 inspection fee to cover the costs of the inspection.

Under current rules, DATCP must grant or deny registration within 30 days after DATCP receives a complete application. Under this rule, if DATCP must inspect to ensure that there is "medically significant separation" between herds kept at the same location, DATCP must grant or deny the registration within 60 days after receiving a complete application.

Duties of Herd Owners

A person keeping farm-raised deer must comply with this rule. The person must keep complete herd records, including records related to animals entering or leaving the herd. The person may not add a cervid to the herd unless the cervid is imported in compliance with this rule, or moved from another registered herd in compliance with this rule. The person may not accept into the herd, on a temporary or permanent basis, any cervid from a wild herd. DATCP may deny, suspend or revoke a registration certificate for cause, including violations of this rule.

Importing Deer and Elk to Wisconsin

Under current rules, no person may import a deer, elk or other cervid into Wisconsin without a permit from DATCP. The importer, or a veterinarian acting on behalf of the importer, may apply for an import permit. The applicant must identify the herd of origin and the herd of destination. Current import rules apply to wild cervids as well as farm-raised deer.

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

- The cervid originates from a herd monitored for at least 5 years under a state-approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
 - Herd members have all been born in the herd or kept in the herd for at least one year.

These requirements do not apply to any of the following:

- A farm-raised deer moved directly to slaughter if it is tested for chronic wasting disease.
- A farm-raised deer moved by or under the control of DNR.
- A farm-raised deer moved between institutions that are accredited by the American association of zoological parks and aquariums.

Mandatory Testing in Wisconsin

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

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

A herd owner enrolled in Wisconsin's herd monitoring program (see below) must also test farm-raised deer at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. No live farm-raised deer may be shipped from a herd unless that herd is enrolled in the monitoring program.

Test Standards and Reports

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

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

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

1 SECTION 3. ATCP 10.01(14m)(a) and (b) are amended to read:

2 ATCP 10.01(14m)(a) The department under s. ATCP ~~40.64~~ 10.84.

3 (b) The authorized animal health agency in the state where the flock is located,
4 under standards comparable to s. ATCP ~~40.64~~ 10.84.

5 SECTION 4. ATCP 10.01(15)(a) and (b) are amended to read:

6 ATCP 10.01(15)(a) The department under s. ATCP 10.14, ~~10.61 or 10.675~~ 10.65
7 or 10.81.

8 (b) The authorized animal health agency in the state where the herd is located,
9 under standards comparable to s. ATCP 10.14, ~~10.61 or 10.675~~ 10.65 or 10.81.

10 SECTION 5. ATCP 10.01(19m) is created to read:

11 ATCP 10.01(^{15r}~~19m~~) "Chronic wasting disease registration tag" means an eartag,
12 used to identify a cervid, ^{of that} which includes all the following:

- 13 (a) A premises identification number assigned by the department.
- 14 (b) A number that uniquely identifies the cervid.

15 SECTION 6. ATCP 10.01(22m) is amended to read:

16 ATCP 10.01(22m) "Farm-raised deer" has the meaning given in s. ~~95.001(1)(a) s.~~
17 95.001(1)(ag), Stats., but does not include cervids kept by an institution accredited by the
18 American association of zoological parks and aquariums.

19 SECTION 7. ATCP 10.01(45)(j) is renumbered ATCP 10.01(45)(k).

20 SECTION 8. ATCP 10.01(45)(j) is created to read:

21 ATCP 10.01(45)(j) The chronic wasting disease registration tag.

22 SECTION 9. ATCP 10.01(69m)(a) and (b) are amended to read:

23 ATCP 10.01(69m)(a) The department under s. ATCP ~~40.67~~ 10.63.

Does exist? OK

repealed OK

See also p. 25

Delay effective date til 1-1-03 see also p. 25-26 and p. 35

1 **SECTION 14.** ATCP 10.63(6)(note) is renumbered ATCP 10.83(6)(note) and
2 amended to read:

3 **NOTE:** A herd owner may have animals tested for Johne's disease at any time.
4 The department will not use the test results to classify the tested herd under
5 this section unless the test complies with this section and the herd owner
6 asks the department to classify the herd.

7
8 This ~~rule~~ section does not prohibit a person from collecting test samples
9 from animals that are too young to be "test eligible" under ATCP
10 10.63(1)(g) 10.83(1)(g), but the department will not consider test results
11 from those animals when determining the appropriate herd classification.
12 To facilitate review of results, the person collecting test samples should
13 separate "test eligible" from "non-test eligible" samples, and should
14 prepare separate test submission forms for each category.

15
16 **SECTION 15.** ATCP 10.63(7) to (14) are renumbered ATCP 10.83(10) to (14).

17 **SECTION 16.** ATCP 10.64 is renumbered ATCP 10.84.

18 **SECTION 17.** ATCP 10.65 is repealed.

19 **SECTION 18.** ATCP 10.651 is renumbered ATCP 10.60.

20 **SECTION 19.** ATCP 10.652 is repealed. *move*

21 **SECTION 20.** ATCP 10.61 is created to read:

22 **ATCP 10.61 Farm-raised deer; keepers registered. (1) REGISTRATION**
23 **CERTIFICATE REQUIRED.** (a) Except as provided in par. (b), no person may keep farm-
24 raised deer unless that person holds a current annual registration certificate issued by the
25 department under this section. A registration certificate is not transferable between
26 persons or herd locations.

27 (b) Paragraph (a) does not apply to an establishment licensed under s. 97.42,
28 Stats., that keeps live farm-raised deer for not more than 72 hours before slaughtering
29 those farm-raised deer.

1 form provided by the department. The application shall include the fees required under
2 sub. (6). The application form shall include all of the following information:

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

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

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

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

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

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

13
14 Wisconsin Department of Agriculture, Trade
15 and Consumer Protection
16 Division of Animal Health
17 P.O. Box 8911
18 Madison, WI 53708-8911
19

rather imprecise!
5 ✓

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

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

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

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

25 (b) A person who applies to register a herd at the same location where another
26 herd is registered shall pay the inspection fee required under sub. (4)(c).

27 (c) An applicant shall pay a registration fee surcharge of \$100 if the department
28 determines that, within 365 days prior to submitting the registration application, the

1 1. Produce records under sub. (8).

2 2. Comply with a lawful department subpoena or order.

3 (g) Paying a registration fee with a worthless check.

4 (8) RECORDKEEPING. (a) A person who keeps farm-raised deer shall keep all of
5 the following records for each farm-raised deer that the person receives from or delivers
6 to another person:

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

8 2. The name and address of the person from whom the person received, or to
9 whom the person delivered, the farm-raised deer.

10 3. The date on which the person received or delivered the farm-raised deer.

11 4. The location at which the person received or delivered the farm-raised deer.

12 5. A copy of the certificate of veterinary inspection that accompanied the farm-
13 raised deer under s. ATCP 11.56.

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

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

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

21 1. Imported into this state in compliance with s. ATCP 11.55:

22 2. Moved, in compliance with s. ATCP 11.56, from another herd that holds a
23 current annual registration certificate under sub. (1).

2c (3)

55 ✓

1 approved under sub. (4). [This paragraph does not apply to farm-raised deer less than 16
2 months old.

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

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

- 8 1. A certified veterinarian.
- 9 2. An employee of the department or the federal bureau.
- 10 3. A person approved by the department in writing.

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

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

*written
approval*

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

23

1 **ATCP 10.67 Chronic wasting disease in farm-raised deer; herd monitoring**

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

4 **NOTE:** No person may move a live farm-raised deer from a herd in this state
5 unless the herd is enrolled in the monitoring program under this section.
6 See ss. ATCP 10.66(2) and 11.56(1).
7

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

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

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

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

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

20 1. The number, species and sex of farm-raised deer in the herd.

21 2. The number of farm-raised deer at least one year old.

22 3. The number of farm-raised deer less than one year old.

23 4. The official individual identification of each farm-raised deer that is at least

24 one year old.

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

4 The statement shall certify all the following:

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

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

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

14 The report shall include all the following:

15 (a) The number, species and sex of farm-raised deer in the herd.

16 (b) The number of farm-raised deer at least one year old.

17 (c) The number of farm-raised deer less than one year old.

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

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

- 1 2. The name and address of the person from whom the farm-raised deer was
2 obtained.
- 3 3. The address of the herd from which the farm-raised deer was obtained.
- 4 4. A copy of the certificate of veterinary inspection related to the shipment.
- 5 (b) A record of each farm-raised deer leaving the herd, including all the
6 following:
- 7 1. Whether the farm-raised deer died on the premises, was shipped to slaughter,
8 or was shipped live other than to slaughter.
- 9 2. If the farm-raised deer was shipped live other than to slaughter, the name of
10 the person to whom it was shipped, the place to which it was shipped and a copy of the
11 certificate of veterinary inspection related to the shipment.
- 12 3. If the farm-raised deer died on the premises, the apparent cause of death, the
13 age of the farm-raised deer, and the disposition of its carcass. If the carcass left the
14 premises, the record shall identify the carcass destination or recipient.
- 15 4. If the farm-raised deer was shipped to slaughter, its age and the name and
16 address of the slaughter establishment.
- 17 (c) A record of all chronic wasting disease tests conducted on farm-raised deer in
18 the herd.
- 19 (d) Records received from the herd veterinarian related to veterinary services
20 provided to the herd.
- 21 (7) **SUSPENDING ENROLLMENT.** (a) The department may, without prior notice or
22 hearing, suspend a herd's enrollment in the herd monitoring program under this section if
23 any of the following apply:

1 (b) The authorized animal health agency of the state in which the herd is located,
2 under standards comparable to s. ATCP 10.17, ~~10.62 or 10.67(1)~~ 10.63 or 10.82.

3 **SECTION 29.** ATCP 11.01(12m)(a) and (b) are amended to read:

4 ATCP 11.01(12m)(a) The department under s. ATCP ~~10.675~~ 10.65.

5 (b) The authorized animal health agency in the state where the herd is located,
6 under standards comparable to s. ATCP ~~10.675~~ 10.65.

7 **SECTION 30.** ATCP 11.01(17m)(a) and (b) are amended to read:

8 ATCP 11.01(17m)(a) The department under s. ATCP ~~10.64~~ 10.84.

9 (b) The authorized animal health agency in the state where the flock is located,
10 under standards comparable to s. ATCP ~~10.64~~ 10.84.

11 **SECTION 31.** ATCP 11.01(18)(a) and (b) are amended to read:

12 ATCP 11.01(18)(a) The department under s. ATCP 10.14, ~~10.61 or 10.675~~ 10.65
13 or 10.81.

14 (b) The authorized animal health agency in the state where the herd is located,
15 under standards comparable to s. ATCP 10.14, ~~or 10.61~~ 10.65 or 10.81.

16 **SECTION 32.** ATCP 11.01(22m) is created to read:

17 ATCP 11.01(^{18r}~~22m~~) "Chronic wasting disease registration tag" means an eartag,
18 used to identify a cervid, ^{Just} which includes all the following:

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

20 (b) A number that uniquely identifies the cervid.

21 **SECTION 33.** ATCP 11.01(29m), (42), (44) and (45) are amended to read:

1 (b) The authorized animal health agency of the state where the herd is located,
2 using standards comparable to those under s. ATCP ~~10.67~~ 10.63.

3 SECTION 39. ATCP 11.02(4)(f) is amended to read:

4 ATCP 11.02(4)(f) If the certificate pertains to a shipment of farm-raised deer
5 shipped from any location a herd in this state, the herd registration ^{number} of the person
6 registered under s. ATCP ~~10.652~~ 10.61 who kept those farm-raised deer at that location.

7 SECTION 40. ATCP 11.545(1)(a)2. is renumbered ATCP 11.545(1)(a)3.

8 SECTION 41. ATCP 11.545(1)(a)2. is created to read:

9 ATCP 11.545(1)(a)2. A chronic wasting disease registration tag.

10 SECTION 42. ATCP 11.545(1)(b)(intro.) is amended to read:

11 ATCP 11.545(1)(b) *Veterinarian required to identify cervids.* A veterinarian
12 who does any of the following to any cervid shall identify that cervid with an official
13 eartag, a chronic wasting disease registration tag or other official individual identification
14 unless the cervid already bears an official individual identification:

15 SECTION 43. ATCP 11.545(1)(c) is repealed and recreated to read:

16 ATCP 11.545(1)(c) *Keeper of farm-raised deer required to identify farm-raised*
17 *deer.* A person who keeps farm-raised deer in this state shall identify, with an official
18 eartag, a chronic wasting disease registration tag or other official individual
19 identification, each of the following farm-raised deer unless that farm-raised deer already
20 bears an official individual identification:

- 21 1. Each farm-raised deer that the person receives from another person.
- 22 2. Each farm-raised deer that the person ships or delivers to another person.

5

2

mixes treatments

avoids

repeals and recreates

1 herd has been diagnosed with, or shown clinical signs of, chronic wasting disease in
2 the last 5 years. There has been no epidemiological evidence of chronic wasting
3 disease in the herd during the past 5 years. The herd owner keeps complete herd
4 records, including records of all deaths and causes of death during the last 5 years,
5 and makes these records available to state animal health officials.”

6
7 2. “All cervids identified on this certificate originate from a herd monitored
8 for the last 5 years under a state-recognized chronic wasting disease monitoring
9 program that complies with federal uniform methods and rules.”

10
11 (e) If the import occurs in 2004, one of the following statements or a substantially
12 similar statement:

13 1. “All cervids identified on this certificate originate from a herd whose
14 members have all been born in the herd or kept in the herd for at least 12 months.
15 No cervids have been added from any outside source, nor has the herd been exposed
16 to cervids from any outside source, during the past 12 months. No cervid in the
17 herd has been diagnosed with, or shown clinical signs of, chronic wasting disease in
18 the last 5 years. There has been no epidemiological evidence of chronic wasting
19 disease in the herd during the past 5 years. The herd has been monitored for the
20 last year under a state-recognized chronic wasting disease monitoring program that
21 complies with federal uniform methods and rules. The herd owner keeps complete
22 herd records, including records of all deaths and causes of death during the last 5
23 years, and makes these records available to state animal health officials.”

24
25 2. “All cervids identified on this certificate originate from a herd monitored
26 for the last 5 years under a state-recognized chronic wasting disease monitoring
27 program that complies with federal uniform methods and rules.”

28
29 (f) If the import occurs in 2005, one of the following statements or a substantially
30 similar statement:

31 1. “All cervids identified on this certificate originate from a herd whose
32 members have all been born in the herd or kept in the herd for at least 12 months.
33 No cervids have been added from any outside source, nor has the herd been exposed
34 to cervids from any outside source, during the past 12 months. No cervid in the
35 herd has been diagnosed with, or shown clinical signs of, chronic wasting disease in
36 the last 5 years. There has been no epidemiological evidence of chronic wasting
37 disease in the herd during the past 5 years. The herd has been monitored for the
38 last 2 years under a state-recognized chronic wasting disease monitoring program
39 that complies with federal uniform methods and rules. The herd owner keeps
40 complete herd records, including records of all deaths and causes of death during
41 the last 5 years, and makes these records available to state animal health officials.”

1 (i) If the import occurs after December 31, 2007, the following statement or a
2 substantially similar statement:

3 **“All cervids identified on this certificate originate from a herd monitored for**
4 **the last 5 years under a state-recognized chronic wasting disease monitoring**
5 **program that complies with federal uniform methods and rules.”**

6
7 SECTION 47. ATCP 11.55(2)(a)1. is amended to read:

8 ATCP 11.55(2)(a)1. The cervid tests negative on 2 pre-import tuberculosis tests
9 conducted not less than 90 days and not more than 150 days apart. The second test shall
10 be conducted not more than 90 days prior to the import date. The cervid shall be tested
11 using the single cervical tuberculin test unless the department authorizes the use of a
12 different tuberculosis test.

13 SECTION 48. ATCP 11.55(4) is amended to read:

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

18 SECTION 49. ATCP 11.56(1) and (2) are repealed and recreated to read:

19 ATCP 11.56(1) MOVING LIVE FARM-RAISED DEER FROM HERDS IN THIS STATE.

20 Except as provided in sub. (2), no person may move a live farm-raised deer from a herd
21 in this state unless all the following apply:

22 (a) The farm-raised deer is accompanied by a certificate of veterinary inspection.

23 A Wisconsin certified veterinarian shall sign the certificate, and shall certify that he or
24 she is the herd veterinarian for the herd of origin.

1 (f) If the farm-raised deer is moved in 2005, the herd has been enrolled in the
2 chronic wasting disease monitoring program under s. ATCP 10.66 for at least 2 years.

3 (g) If the farm-raised deer is moved in 2006, the herd has been enrolled in the
4 chronic wasting disease monitoring program under s. ATCP 10.66 for at least 3 years.

5 (h) If the farm-raised deer is moved in 2007, the herd has been enrolled in the
6 chronic wasting disease monitoring program under s. ATCP 10.66 for at least 4 years.

7 (i) If the farm-raised deer is moved after December 31, 2007, the herd has been
8 enrolled in the chronic wasting disease monitoring program under s. ATCP 10.66 for at
9 least 5 years.

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

11 (a) A farm-raised deer moved directly to slaughter, if all the following apply:

12 1. The farm-raised deer is accompanied by a slaughter movement permit (APHIS
13 form VS 1-27).

14 2. The farm-raised deer, if at least 16 months old, is tested for chronic wasting
15 disease.

16 (b) ^A ~~The~~ farm-raised deer ^{that} is moved by or under the control of the department of
17 natural resources.

18 (c) ^A ~~The~~ farm-raised deer ^{that} is moved between institutions that are accredited by the
19 American association of zoological parks and aquariums.

20 SECTION 50. ATCP 11.56(2)(note) is created to read:

21 **NOTE:** Section ATCP 10.66(1)(a) requires a herd owner to have a farm-raised
22 deer carcass tested for chronic wasting disease if the farm-raised deer was
23 at least 16 months old and any part of the carcass leaves the herd premises.

24 SECTION 51. ATCP 11.58(2)(c) is amended to read:
25

5

1 ATCP 12.01(8w) "Farm-raised deer" has the meaning given in s. 95.001(1)(a) s.
2 95.001(1)(ag), Stats., but does not include cervids kept by an institution accredited by the
3 American association of zoological parks and aquariums.

4 **SECTION 56.** ATCP 12.01(14), (16) and (17) are amended to read:

5 (14) "Livestock dealer" ~~has the meaning specified~~ means an animal dealer as
6 defined under s. 95.69(1)(c), Stats., and includes any person who leases livestock to
7 others.

8 (16) "Livestock market" ~~has the meaning specified~~ means an animal market as
9 defined under s. ~~95.68(1)(e)~~ 95.68(1)(ag), Stats.

10 (17) "Livestock trucker" ~~has the meaning specified~~ means an animal trucker as
11 defined under s. 95.71(1)(e), Stats.

12 **SECTION 57.** ATCP 12.01(20)(j) is renumbered ATCP 12.01(20)(k).

13 **SECTION 58.** ATCP 12.01(20)(j) is created to read:

14 ATCP 12.01(20)(j) The chronic wasting disease registration tag.

*no def in ATCP 12
(number of 12.01 (25))*

15 **SECTION 59.** ATCP 12.03(1)(note) is amended to read:

16 **NOTE:** A registration certificate for a keeper of farm-raised deer under s. ATCP
17 ~~10.652~~ 10.61 does not entitle the holder of that certificate to operate as a
18 livestock dealer unless that person is also licensed under this section. A
19 livestock dealer license under this section does not entitle the holder of that
20 license to keep farm-raised deer unless that person is also licensed under
21 this section. A livestock dealer license under this section does not entitle
22 the holder of that license to keep farm-raised deer unless that person also
23 holds a registration certificate under s. ATCP ~~10.652~~ 10.61.

24 **SECTION 60.** ATCP 12.05(5)(a)3. is amended to read:

25
26 ATCP 12.05(5)(a)3. Official individual identification under this paragraph shall
27 consist of an official eartag, a chronic wasting disease registration tag or another form of
28 official individual identification which the department approves in writing.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

RULES RELATED TO CHRONIC WASTING DISEASE IN CERVIDS

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on its emergency rule relating to chronic wasting disease in cervids. The department will hold one hearing at the time and place shown below. The department invites the public to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until May 24, 2002, for additional written comments.

You may obtain a free copy of this emergency rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Animal Health, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling 608-224-4883. Copies will also be available at the hearing.

Hearing impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by May 15, 2002, by writing to Melissa Mace, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4883. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearing.

One hearing is scheduled:

Wednesday, May 22, 2002, commencing at 7:00 p.m.
Prairie Oaks State Office Building, Board Room
2811 Agriculture Drive
Madison, WI 53708
Handicapped accessible

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

Statutory Authority: ss. 93.07(1) and 95.20, Stats.
Statutes Interpreted: ss. 93.07(10), 95.20, 95.22, and 95.31, Stats.

This emergency rule regulates the import, keeping and movement of cervids, including deer and elk, to prevent the spread of chronic wasting disease. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers this rule. This rule applies to captive

cervids, including farm-raised deer and captive white-tail deer. This rule does not apply to free-ranging deer or elk regulated by the Department of Natural Resources (DNR).

Background

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

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

Importing Cervids to Wisconsin

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

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

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

Moving Live Cervids from Herds in Wisconsin

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

Under this rule:

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

These requirements do not apply to any of the following:

- A cervid moved directly to slaughter if the cervid is tested for chronic wasting disease.
- A cervid moved between 2 locations operated by the same herd owner, and covered by the same farm-raised deer herd registration.
- A cervid moved by or under the control of DNR.
- A cervid moved between institutions that are accredited by the American association of zoological parks and aquariums.

Mandatory Testing in Wisconsin

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

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

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

Test Standards and Reports

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

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

- Test samples must be collected according to standard veterinary procedure, and tested at a laboratory approved by DATCP or APHIS.
- Veterinarians and others must report to DATCP if test results are positive for chronic wasting disease. This reporting requirement applies to voluntary tests, as well as required tests. Persons receiving positive test results must report within one day, and confirm the report in writing within 10 days.

Quarantine and Condemnation

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

Herd Monitoring Program

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

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

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

- Identify each cervid in the herd, with official individual identification, before the cervid is one year old.

- Test every cervid that dies or is shipped to slaughter, if that cervid is at least 16 months old. This testing requirement applies, regardless of whether the cervid's carcass leaves the herd premises.
- Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.
- Provide an annual statement from the herd veterinarian. The herd veterinarian must submit the annual statement to DATCP, within 30 days before or after the herd enrollment anniversary date. The veterinarian must certify that he or she is the herd veterinarian, and that no cervid in the herd has shown any signs of chronic wasting disease since the last annual statement.
- File a report of an annual herd census. The herd owner must complete the annual census within 30 days before or after the enrollment anniversary date, and must file the report within 10 days after completing the census. The census report must include all the following:
 - The number, species and sex of cervids in the herd.
 - The number of cervids at least one year old, and the number of cervids less than one year old.
 - The official individual identification of each cervid that is at least one year old.
 - The number, species and sex of cervids added to the herd since the last reported herd census. The report must indicate whether these new cervids were born into the herd or added from another source. If cervids were added from another source, the report must identify the source from which the cervids were obtained.
 - The number of cervids that left the herd since the last reported herd census. The report must explain how each cervid left the herd, including all the following:
 - * Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the cervid died on the premises, the cervid's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.
 - * If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment. If the cervid was at least 16 months old, the report must include a chronic wasting disease test report.

- Maintain all the following records for at least 5 years, and make those records available to DATCP for inspection and copying upon request:
 - A record of each cervid added to the herd from another source, including:
 - * The species, age and sex of the cervid.
 - * The name and address of the person from whom the cervid was obtained.
 - * The address of the herd from which the cervid was obtained.
 - A record of each cervid leaving the herd, including all the following:
 - * Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the cervid died on the premises, the apparent cause of death, the cervid's age, and the disposition of the cervid's carcass. If the carcass left the premises, the record must identify the carcass destination or recipient.
 - * If the cervid was shipped to slaughter, the cervid's age and the name and address of the slaughter establishment.
 - A copy of all records received from the herd veterinarian related to veterinary services provided to the herd.

Fiscal Estimate

This emergency rule establishes a monitoring and testing program for captive cervids in this state. This rule also regulates imports and movement of captive cervids. DATCP will need additional staff to:

- Investigate and monitor movement of cervids into and around the state of Wisconsin.
- Compile evidence and enforce the rules, as necessary.
- Create and maintain complete files for all captive cervid farms.
- Collect samples for testing, and train individuals to collect samples.
- Create a data management system to track and monitor chronic wasting disease and herd data.

These costs will be ongoing. Only a portion of the costs will be incurred during the temporary duration of the emergency rule. DATCP is proposing a "permanent" rule which will incorporate similar provisions. The short-term annual costs during the term of the emergency rule will be

approximately \$2,401,504.00. Long-term costs will be much greater, but have not yet been fully analyzed.

Regulatory Flexibility Analysis

The department will prepare a regulatory flexibility analysis on its proposed permanent rule relating to chronic wasting disease in cervids.

Dated this 15th day of April, 2002.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By: _____

Leslie F. L.

James E. Harsdorf
Secretary

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

RULES RELATED TO CHRONIC WASTING DISEASE IN CERVIDS

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on its rule relating to chronic wasting disease in cervids. The department will hold four hearings at the times and places shown below. The department invites the public to attend the hearings and comment on the rule. Following the public hearings, the hearing record will remain open until August 2, 2002, for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Animal Health, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling 608-224-4883. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by **July 10, 2002**, by writing to Melissa Mace, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4883. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearing.

Hearings are scheduled at:

Tuesday, July 16, 2002, commencing at 6:00 p.m.

UW Fond du Lac

University Center, rm. 113

400 University Ave

Fond du Lac, WI 54935

Handicapped accessible

Thursday, July 18, 2002, commencing at 6:00 p.m.

Quality Inn

809 West Clairemont Avenue

Eau Claire, WI 54702 - 8037

Handicapped accessible

Monday, July 22, 2002, commencing at 6:00 p.m.

Wisconsin Department of Agriculture, Trade and Consumer Protection

Board Room

2811 Agriculture Drive

Madison, WI 53718

Handicapped accessible

Thursday July 25, 2002, commencing at 6:00 p.m.

UW Marathon County

Terrace Room NA 100

518 South 7th Avenue

Wausau, WI 54401

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

Statutory Authority: ss. 93.07(1), 93.07(10) and 95.20, Stats.

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

This rule regulates the import, testing, identification and movement of farm-raised deer (including deer and elk) to prevent the spread of chronic wasting disease. This rule also modifies current rules related to the registration of farm-raised deer herds in this state. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers this rule.

For the most part, this rule does not apply to wild deer or elk regulated by the Department of Natural Resources (DNR). However, this rule does regulate *imports* of wild deer and elk. This rule also requires a person to report to DATCP if farm-raised deer *or a wild deer or elk* tests positive for chronic wasting disease.

Background

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

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

Registering Farm-Raised Deer Herds

DATCP currently regulates "farm-raised deer" herds in this state. Under the new captive wildlife law (2001 Wis. Act 56), captive white-tail deer will also be classified as "farm-raised

deer" after January 1, 2003. This rule regulates the keeping of "farm-raised deer," including captive white-tail deer.

Under current rules, a person keeping a herd of farm-raised deer must register the herd with DATCP. A person who keeps farm-raised deer at 2 separate locations may register all of those farm-raised deer as a single herd, and may freely move farm-raised deer between the 2 locations. Under this rule, a person may no longer register herds kept at 2 locations as a single herd, but must register each location as a separate herd. This means that the person must comply with intra-state movement regulations (see below) when moving farm-raised deer between the 2 locations.

A person may register separate herds at the same location if there is "medically significant separation" of the herds. There must be adequate fencing and facilities to maintain the separation, and the herd owner must comply with intra-state movement regulations (see below) when moving farm-raised deer between the herds. A person might choose to register separate herds at the same location if, for example, the person maintains a breeding operation (from which live animals are shipped) and a separate hunting operation (from which no live animals are shipped) at that location.

Before DATCP registers 2 herds at the same location, DATCP must inspect the premises to determine whether the facilities and fencing are adequate to maintain "medically significant separation" of the herds. The herd owner must pay, in addition to the normal registration fees, a \$150 inspection fee to cover the costs of the inspection.

Under current rules, DATCP must grant or deny registration within 30 days after DATCP receives a complete application. Under this rule, if DATCP must inspect to ensure that there is "medically significant separation" between herds kept at the same location, DATCP must grant or deny the registration within 60 days after receiving a complete application.

Duties of Herd Owners

A person keeping farm-raised deer must comply with this rule. The person must keep complete herd records, including records related to animals entering or leaving the herd. The person may not add a cervid to the herd unless the cervid is imported in compliance with this rule, or moved from another registered herd in compliance with this rule. The person may not accept into the herd, on a temporary or permanent basis, any cervid from a wild herd. DATCP may deny, suspend or revoke a registration certificate for cause, including violations of this rule.

Importing Deer and Elk to Wisconsin

Under current rules, no person may import a deer, elk or other cervid into Wisconsin without a permit from DATCP. The importer, or a veterinarian acting on behalf of the importer, may apply for an import permit. The applicant must identify the herd of origin and the herd of destination. Current import rules apply to wild cervids as well as farm-raised deer.

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

- The cervid originates from a herd monitored for at least 5 years under a state-approved chronic wasting disease herd certification program that complies with federal uniform methods and rules.
- The cervid originates from a herd that meets all the following criteria:
 - Herd members have all been born in the herd or kept in the herd for at least one year.
 - Herd members have not been added from any outside source, or exposed to cervids from any outside source, in the past year.
 - There have been no clinical signs of chronic wasting disease in the herd for the past 5 years.
 - Animal health officials in the state of origin have access to herd records for the past 5 years, including records of deaths and causes of death.
 - If the cervid is imported after December 31, 2003, the animal originates from a herd that is enrolled in a state-approved chronic wasting disease program that complies with federal uniform methods and rules:
 - * Animals imported in 2004 must originate from herds enrolled for at least one year.
 - * Animals imported in 2005 must originate from herds enrolled for at least 2 years.
 - * Animals imported in 2006 must originate from herds enrolled for at least 3 years.
 - * Animals imported in 2007 must originate from herds enrolled for at least 4 years.
 - * Animals imported in 2008 and subsequent years must originate from herds enrolled for at least 5 years.

Moving Live Farm-Raised Deer from Herds in Wisconsin

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

- The veterinarian must also certify that the herd of origin has shown no clinical signs of chronic wasting disease in the last 12 months. The veterinarian must be the herd veterinarian for the herd of origin.
- The herd of origin must be enrolled in Wisconsin's herd monitoring program (see below). The required length of enrollment will increase over time:
 - Beginning in 2004, the herd must have been enrolled for at least one year.

- Beginning in 2005, the herd must have been enrolled for at least 2 years.
- Beginning in 2006, the herd must have been enrolled for at least 3 years.
- Beginning in 2007, the herd must have been enrolled for at least 4 years.
- Beginning in 2008, the herd must have been enrolled for at least 5 years.

These requirements do not apply to any of the following:

- A farm-raised deer moved directly to slaughter if it is tested for chronic wasting disease.
- A farm-raised deer moved by or under the control of DNR.
- A farm-raised deer moved between institutions that are accredited by the American association of zoological parks and aquariums.

Mandatory Testing in Wisconsin

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

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

A herd owner enrolled in Wisconsin's herd monitoring program (see below) must also test farm-raised deer at least 16 months old that die on the herd premises, even if their carcasses do not leave the herd premises. No live farm-raised deer may be shipped from a herd unless that herd is enrolled in the monitoring program.

Test Standards and Reports

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

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

Persons receiving positive test results must report within one day, and confirm the report in writing within 10 days.

Quarantine and Condemnation

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

Herd Monitoring Program

This rule establishes a herd monitoring program for chronic wasting disease. This program supplements the mandatory testing requirements described above. No live farm-raised deer may be shipped from a herd unless that herd is enrolled in the monitoring program (see above). A herd owner who wishes to enroll in the program must do all the following:

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

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

- Identify each farm-raised deer in the herd, with official individual identification, before the farm-raised deer is one year old.
- Test every farm-raised deer that dies or is shipped to slaughter, if that farm-raised deer is at least 16 months old. This testing requirement applies, regardless of whether the carcass leaves the herd premises.

- Notify the herd veterinarian within 24 hours after the herd owner observes any signs or symptoms of chronic wasting disease.
- Provide an annual statement from the herd veterinarian. The herd veterinarian must submit the annual statement to DATCP, within 30 days before or after the herd enrollment anniversary date. The veterinarian must certify that he or she is the herd veterinarian, and that no farm-raised deer in the herd has shown any clinical signs of chronic wasting disease since the last annual statement.
- File a report of an annual herd census. The herd owner must complete the annual census within 30 days before or after the enrollment anniversary date, and must file the report within 10 days after completing the census. The census report must include all the following:
 - The number, species and sex of farm-raised deer in the herd.
 - The number of farm-raised deer at least one year old, and the number less than one year old.
 - The official individual identification of each farm-raised deer that is at least one year old.
 - The number, species and sex of farm-raised deer added to the herd since the last reported herd census. The report must indicate whether these new farm-raised deer were born into the herd or added from another source. If farm-raised deer were added from another source, the report must identify the source from which they were obtained.
 - The number of farm-raised deer that left the herd since the last reported herd census. The report must explain how each farm-raised deer left the herd, including all the following:
 - * Whether the farm-raised deer died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the farm-raised deer was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the farm-raised deer died on the premises, the animal's age and the disposition of its carcass. If the carcass left the premises, the report must identify the carcass destination or recipient. If the animal was at least 16 months old, the report must include a chronic wasting disease test report.
 - * If the farm-raised deer was shipped to slaughter, the animal's age and the name and address of the slaughter establishment. If the farm-raised deer was at least 16 months old, the report must include a chronic wasting disease test report.
- Maintain all the following records for at least 5 years, and make those records available to DATCP for inspection and copying upon request:

- A record of each farm-raised deer added to the herd from another source, including:
 - * The species, age and sex of the animal.
 - * The name and address of the person from whom the animal was obtained.
 - * The address of the herd from which the animal was obtained.
- A record of each farm-raised deer leaving the herd, including all the following:
 - * Whether the animal died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.
 - * If the animal was shipped live other than to slaughter, the name of the person to whom it was shipped and the place to which it was shipped.
 - * If the animal died on the premises, the apparent cause of death, the animal's age, and the disposition of the animal's carcass. If the carcass left the premises, the record must identify the carcass destination or recipient.
 - * If the animal was shipped to slaughter, the animal's age and the name and address of the slaughter establishment.

A copy of all records received from the herd veterinarian related to veterinary services provided to the herd.

Fiscal Estimate

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

The Department is responsible for 985 registered deer farms, with an average herd size of 50 head per herd, that will need to begin testing for CWD in some capacity, and be actively monitored. All cervids, 16 months of age or older, whose carcass leaves the herd premises, for any reason, will require testing. Additionally, in order for these farms to move live animals from their establishments they will need to comply with the herd monitoring program as set out in the rule. This will require increased costs in record keeping, data maintenance, and surveillance and monitoring to assure that the farms and meat processing plants are in compliance with requirements. The additional number of inspections of facilities and record audits will be unmanageable with current staff. With the discovery of CWD in Wisconsin staff will be needed

to do thorough investigations that will include interviews and detailed record inspections and follow-ups with all deer farms. Extensive epidemiological investigations will ensue in the event of a quarantine, and could lead to whole herds being euthanized. In order to ensure the health of the captive and commercial deer in Wisconsin more extensive monitoring for illegal movements and active, timely investigations of records and complaints will be necessary.

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

To manage and contain the disease it is anticipated that 5 herds per year will need to be bought by the department as deemed necessary through epidemiological evaluation and risk analysis, separate from indemnification.

Revenue will be generated by additional registration of premises requirements. Two locations can no longer be under one registration. One premises can have two separate herds registered, however these locations must be inspected by the Department for a fee of \$150. Additional revenues are estimated at \$39,800. This is based on the following assumptions:

1. Of the existing non white tailed deer farms, approximately 17% have two locations that will need to be registered separately, that are currently under one registration, generating an estimated \$4,800 annually.
2. Of the existing white-tailed deer farms, it is estimated the 26% will go out of business, and the remaining farms will generate \$32,500 annually in registration fees.
3. For a multiple registration on one premises, inspections are estimated to generate \$2,500 annually

The fiscal estimate is \$2,406,000 annually.

Regulatory Flexibility Analysis

Rule Description

This rule affects farm-raised deer keepers. It includes general registration requirements and provisions related specifically to chronic wasting disease. This rule does the following:

- Includes white-tail deer farmers in the registration requirements that already exist for farm-raised deer keepers. This implements the new captive wildlife law (2001 Act 56) which will be effective January 1, 2003.
- Changes requirements for persons keeping 2 or more farm-raised deer herds.
- Increases record keeping requirements for farm-raised deer keepers.

- Prohibits farm-raised deer keepers from accepting into his or herd, on a permanent or temporary basis, any cervid from a wild herd.
- Imposes import restrictions specifically related to reducing the likelihood that chronic wasting disease will be imported to a farm-raised deer herd.
- Imposes restrictions on movement of farm-raised deer within Wisconsin. Requires participation in CWD herd monitoring program before any live cervid can be moved off farm-raised deer premises in Wisconsin.
- Requires CWD testing of every cervid over the age of 16 months that dies on a farm-raised deer farm if any part of the carcass is removed from the farm.
- Requires pre-movement tuberculosis testing of farm-raised white-tail deer in Wisconsin.

Small Businesses Affected by this Rule

Currently there are approximately 985 persons who are either registered as farm-raised deer keepers or licensed by DNR as game farms. After January 1, 2003, all of these people will be required to register with DATCP as farm-raised deer keepers. Most of these people qualify as a small business and will be affected by this rule.

Effects on Small Business

This rule will have a substantial impact on registered farm-raised deer keepers. It increases costs by requiring the farm-raised deer keeper to have CWD testing done on any cervid over 16 months of age that dies on the registered premises if any portion of the carcass leaves the registered premises. It also requires CWD testing of any cervid over 16 months of age that is shipped directly to slaughter. In addition, if any live cervid is moved from the registered premises, the farm-raised deer keeper is required to test every cervid over 16 months of age that dies on the premises, whether or not any part of the carcass leaves the premises. All costs of testing are the responsibility of the farm-raised deer keeper. It is not clear how much the testing will cost, but it is estimated it could cost as much as \$100 per test.

If the farm-raised deer keeper plans to move any live animal off the registered premises, the herd will have to be enrolled in the CWD herd monitoring program. The farm-raised deer keeper whose herd is enrolled in the CWD herd monitoring program under this rule will incur additional costs. Every cervid in the herd that dies after reaching 16 months of age must have a CWD test completed, regardless of whether any part of the carcass leaves the premises. In addition, every cervid in the herd must be identified with official individual identification before it reaches 1 year of age, or before it leaves the premises whichever occurs first. If the herd owner applies the identification herself or himself, it could be done for \$1.00 or less per animal. If a veterinarian is used to apply the identification, the costs could be substantially more. As part of the CWD herd monitoring program, the herd owner will have to maintain more detailed records and file an annual census with the department. Under this rule, the requirement that cervids moving off registered premises must originate from a herd that is enrolled in the CWD monitoring program

is effective immediately. The requirement is gradually increased so that effective in 2008, the herd of origin must have been in the herd monitoring program for 5 years prior to movement of animals from the herd.

Under current rules, a farm-raised deer may not be removed from the herd premises unless a certified veterinarian completes a certificate of veterinary inspection and the cervid has tested negative for tuberculosis. This rule extends the requirement for a certificate of veterinary inspection and negative tests for tuberculosis prior to movement to all farm-raised white-tail deer. These requirements represent an additional cost to the keeper of farm-raised white-tail deer. In addition to the costs to obtain a certificate of veterinary inspection and to complete the tuberculosis tests, many keepers of farm-raised white-tail deer will find that efficiency in completing the tuberculosis tests requires the keeper to purchase new animal handling equipment that will permit testing of the cervids without anesthetization. The rule does not require installation of animal handling equipment, only completion of the test. We estimate this type of animal handling equipment could cost about \$3000 – 5000.

Some limited number of farm-raised deer keepers will incur additional registration fees. Under current rules, a keeper of farm-raised deer is allowed to register more than one location as one operation and pay one registration fee. Under this rule, each separate location must be registered separately and separate registration fees are paid for each location. (The registration fee for each location is \$50 if no more than 15 deer are kept at the location or \$100 if more than 15 deer are kept at the location.)

Under this rule a farm-raised deer keeper may register more than one herd at a location if the fences and facilities are adequate to maintain a “medically significant separation” between the herds. One instance where this would be necessary is if the farm-raised deer keeper maintains a breeding herd that he wants to ship live animals out of, and a hunting herd at the same location. If the keeper ships live animals out of the breeding herd, he or she must either enroll all the animals in both herds in the herd monitoring program, including applying official individual identification to all the animals and maintaining an accurate census, or maintain and register two separate herds. If the keeper maintains two separate herds at one location, he or she will incur the additional registration fee and an inspection fee of \$150 per inspection for a DATCP employee to inspect the premises to assure that the fences and/or facilities are adequate to maintain a “medically significant separation.”

Under this rule, cervids may not be imported into Wisconsin unless they originated from a herd that has been under surveillance or monitored for CWD for a period of 5 years. A herd that is under surveillance for CWD is being watched by an accredited veterinarian to determine whether animals in the herd show clinical signs of CWD. A herd that is being monitored for CWD is being watched for clinical signs of CWD and animals that die are being tested for CWD. In addition, the herd owner identifies each animal, maintains in depth records of each animal and makes those records available to the animal health officials in the state of origin. This rule immediately requires that any cervid being imported originate from a herd that has been under surveillance for 5 years. The rule gradually phases in a change from 5 years of surveillance to 5 years as a monitored herd. This requirement reduces the number of potential sources for a farm-raised deer farmer to purchase animals for addition to the herd. Because the number of sources

is reduced, the price of the cervids may increase. It is not possible to determine how much of a price increase might occur.

Steps to Assist Small Business

For purposes of controlling this disease threat, it is essential that cervids be identified with official individual identification and records maintained of their movements. Prior to this rule, official individual identification generally required a veterinarian to insert an official eartag in the ear of the animal. This could become very costly and caused extreme stress for some of the animals. This rule recognizes a new form of official individual identification called a "chronic wasting disease registration tag." The herd owner will register with DATCP and receive a premises ID. The herd owner then is allowed to contact an approved manufacturer to obtain eartags that will include both the premises ID and an individual ID number that the owner will assign to each individual animal. The owner will be able to apply these tags to the cervids and will probably be able to do so at a cost of less than \$1.00 per animal.

The department would like to require that any cervid moving interstate or within Wisconsin originate from a herd that has been participating in a CWD monitoring program for at least 5 years. However, the department recognizes that imposing such a restriction at this time would be onerous. Therefore, the department is phasing in the restriction to allow people to get enrolled in the program and meet shipment requirements as the requirements increase. By 2008, the requirements for 5 years of participation in the herd monitoring program will be fully implemented.

Conclusion

This rule will have a significant impact on farm-raised deer keepers throughout Wisconsin. It may be costly for farm-raised deer keepers to comply with the requirements of the rule. However, the alternative may be the total failure of the industry. If Chronic Wasting Disease becomes established in the farm-raised deer industry in Wisconsin, we will see significant loss of animals due to the disease, a complete closing of markets for live animals from Wisconsin and we may see a significant reduction in the number of hunters willing to pay for a hunt in Wisconsin. In addition, we would likely see a significant call from politicians and the public for the elimination of legal deer farms in the state. The provisions of this rule are designed to minimize the risk that chronic wasting disease will be introduced to Wisconsin deer farms, and if it is discovered in a deer farm, they should help confine and potentially eliminate the disease from the farmed population. Ultimately, if the industry is to survive, these provisions need to be adopted.

Dated this 17th day of June, 2002.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

✓ By: James E. Harsdorf
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Secretary