

JCRAR 9-5-02 Robson Update

To: Judy
From: Justin
Re: JCRAR
Date: September 4, 2002

JCRAR meets Thursday morning at 11:00 a.m. in room 225 Northwest. Representative Grothman is chairing. There are two emergency rule extensions on the agenda.

Emergency rule chs. ATCP 10 & 11:

Non-controversial in that the major groups have all agreed that this rule is ok. There is some resistance from Enviro/hunting groups because the rules do not completely ban the import/export of deer and elk. There are restrictions on the import of cervids, but without knowing the transfer vector for this disease, it is still a possibility that Wisconsin could re-import this disease. Overall this extension should pass with minimal controversy.

Emergency Rule ch. ATCP 96

This is also fairly non-controversial, and due to the timing of promulgating rules we will see it again. This emergency rule implements ch. 126, Stats as it applies to milk contractors. The law financially protects milk producers. Permanent rule is expected in January 2003.

Emergency Rule

chs. ATCP 10 and 11

Relating to chronic wasting disease in cervids.

The Department of Agriculture Trade and Consumer Protection requests an extension of the effective period of this emergency rule until June 1, 2003, pursuant to 2001 Wis. Act 108.



State of Wisconsin
Scott McCallum, Governor

Department of Agriculture, Trade and Consumer Protection

James E. Harsdorf, Secretary

July 2, 2002

The Honorable Judy Robson, Co-Chair
Joint Committee for
the Review of Administrative Rules
15 South State Capitol
Madison, WI 53702

The Honorable Glenn Grothman, Co-Chair
Joint Committee for
the Review of Administrative Rules
15 North State Capitol
Madison, WI 53702

Dear Representatives Robson and Grothman:

Re: **Emergency Rule Extension – Chronic Wasting Disease**

The Department of Agriculture, Trade and Consumer Protection asks the Joint Committee for the Review of Administrative Rules (JCRAR) to extend the above emergency rule, which is scheduled to expire on September 6, 2002. Pursuant to 2001 Wis. Act 108, the department asks JCRAR to extend the emergency rule until June 1, 2003.

This emergency rule imposes restrictions on importing cervids (deer and elk) to Wisconsin and on moving cervids from herds in Wisconsin. It requires that cervids being imported to Wisconsin must originate from a herd that has been under surveillance for CWD for a period of 5 years. (Current law already requires cervids to have negative tuberculosis and brucellosis tests before they are imported.) Cervids that are being moved from herds in Wisconsin must originate from a herd that is enrolled in the CWD herd monitoring program. The rule establishes the requirements for participating in the CWD herd monitoring program. This rule also extends the pre-movement tuberculosis testing requirement to captive white tail deer which were previously exempt from this requirement.

Under this emergency rule, any captive cervid in Wisconsin that dies after reaching 16 months of age must be tested for CWD if the carcass or any part of the carcass is removed from the herd premises. All cervids 16 months of age or older that are shipped to slaughter must be tested for CWD.

We are enclosing copies of the emergency rule, fiscal estimate and hearing notice. The emergency rule includes a *Finding of Emergency* that explains the need for this rule. The department has started “permanent” rulemaking proceedings, but will not be able to complete those proceedings before the emergency rule expires. The department is therefore asking JCRAR to extend the emergency rule.

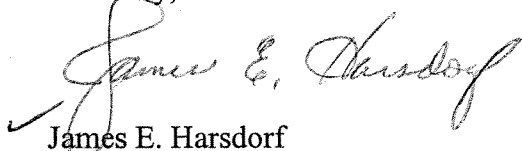
The department held a public hearing on the emergency rule on May 22, 2002. A total of 12 people attended the hearing. Five of the people testified, one person supported the rule, three people opposed the rule and one person testified neither for nor against the rule. The most frequent objection to the emergency rule is that it costs too much to do the testing and farmers who decide to get out of the business will have to pay for the testing before their animals can be sold and moved. One person suggested that farmers be allowed to collect the test samples themselves rather than having to get a veterinarian to collect the samples. One person expressed concern that we simply do not know enough about this disease to justify the restrictions created by this rule. And, one person expressed a concern because identification of all the animals with official ID is onerous and cannot be accomplished by people who let their animals roam on large acreage operations so he does not believe identifying the animals should be a necessary part of participating in a herd monitoring program. After considering these concerns, the department decided not to amend the rule.

Seven people registered at the hearing but did not present testimony. Three people registered in support of the rule, two persons registered neither for nor against the rule, and two people indicated they were "just here to listen."

The department will hold hearings on the "permanent" rule in late July, 2002 and will close the hearing record on August 2, 2002. We plan to submit a final draft rule for DATCP Board approval in November, 2002. If the DATCP Board approves the final draft rule, we will refer it to the Legislature for review. Because of the time required for legislative review, promulgation and publication, the department does not expect the permanent rule to be published until May 31, 2003. Under the provisions of 2001 Wisconsin Act 108, JCRAR is authorized to extend the effective period of this rule until the "permanent" rule is in effect or until September 1, 2003, whichever is earlier. Therefore, the department is requesting an extension until the anticipated effective date of June 1, 2003.

The department will have staff available to answer questions at the JCRAR meeting on this matter.

Sincerely,



James E. Harsdorf
Secretary

Enclosures

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

EMERGENCY RULE

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

**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.

BSE
not a food safety test
USDA approve the test
report to vet
online → end of Sept 7
3-4 months

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.
-

FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **EMERGENCY RULE**

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

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

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

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

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

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

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

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

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

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

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

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

4 **NOTE:** The reporting requirement under sub. (5) applies to *any* laboratory test
5 result that is positive for chronic wasting disease, not just the result of a
6 test required under sub. (1). Telephone and FAX reports should be made
7 to the following numbers:
8

9 Phone: (608) 224-4872
10 FAX: (608) 224-4871
11

12 Written reports should be made to the following address:
13

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

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

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

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

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

3 **ATCP 10.58 Chronic wasting disease in captive cervids; herd monitoring**

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

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

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

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

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

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

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

22 1. The number, species and sex of cervids in the herd.

23 2. The number of cervids at least one year old.

24 3. The number of cervids less than one year old.

25 4. The official individual identification of each cervid that is at least one year old.

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

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

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

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

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

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

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

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

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

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

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

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

4 The statement shall certify all the following:

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

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

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

14 The report shall include all the following:

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

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

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

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

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

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

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

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

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

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

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

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

18

19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) The state veterinarian or designee may issue a suspension order under par. (a).

23 A person adversely affected by a suspension order may request a hearing before the
24 department, as provided in ch. 227, Stats., and ch. ATCP 1.

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

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

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

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

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

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

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

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

29 ATCP 11.56(1) **MOVING LIVE CAPTIVE CERVIDS FROM HERDS IN THIS STATE.**
30 Except as provided in sub. (2), no person may move a live captive cervid from a herd in
31 this state unless all the following apply:

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

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

8 1. A cervid less than 6 months old.

9 2. A cervid moved directly to a tuberculosis isolation and testing facility under
10 sub. (4), pursuant to a department permit under s. ATCP 11.60(4).

11 3. A cervid that originates from an accredited tuberculosis free herd.

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

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

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

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

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

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

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

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

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

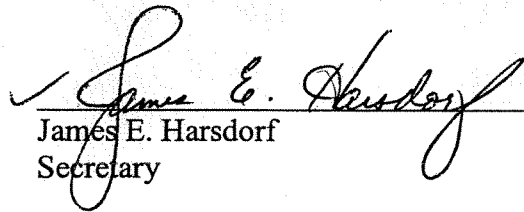
5 **SECTION 5.** ATCP 11.56(2)(note) is created to read:

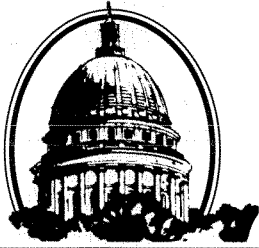
6 **NOTE:** Section ATCP 10.57(1)(a) requires that specimens be collected for
7 chronic wasting disease testing from every captive cervid if the cervid was
8 at least 16 months old and the carcass or any part of the carcass leaves the
9 herd premises.

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

Dated this 3 day of April, 2002.

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


James E. Harsdorf
Secretary



State Senator
James R. Baumgart

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Toll-free: 1-888-295-8750 • E-Mail: sen.baumgart@legis.state.wi.us

September 5, 2002

Senator Judy Robson, Co-Chair
Joint Committee for Review of Administrative Rules
State Capitol, Room 15 South
HAND DELIVERED

Dear Senator Robson:

Thank you for holding a public hearing on the Department of Agriculture, Trade and Consumer Protection's request to extend ATCP 10 and 11, which relates to Chronic Wasting Disease in Cervids. The Department is seeking to extend these rules based on the authority given to them as part of the special session legislation that resulted in passage of Act 108.

These rules deserve a thorough review by the committee to ensure that indeed the appropriate safeguards against the spread of this disease are in place. While it is important that these rules are effective it is also imperative that there be continuity that results in protections being constantly in place. If there is a lapse in the guidelines established by the department it may result in the unregulated movement of animals around the state. Any such movement will increase the likelihood that CWD is spread to other parts of Wisconsin.

Thank you for your attention to this matter and if you have any questions please feel free to contact me.

Sincerely,

JIM BAUMGART
State Senator
9th Senate District

JB/ph