

Clearinghouse Rule 11-048

State of Wisconsin
Department of Agriculture, Trade, and Consumer Protection

NOTICE OF HEARING

Rule Related to Animal Health and Disease Control, and Humane Officer Training

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule related to animal health and disease control; and human officer training.

DATCP will hold three public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until Tuesday, January 3, 2012 for additional written comments. Comments may be sent to the Division of Animal Health at the address below, by email to DATCPHearingCommentsAH@wisconsin.gov or online <http://AdminRules.Wisconsin.gov/>.

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. You can also obtain a copy by calling (608) 224-4883 or emailing Melissa.mace@wi.gov. Copies will also be available at the hearings. To view the proposed rule online, go to: <http://AdminRules.Wisconsin.gov/>.

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator Keeley Moll at the address above, by emailing to Keeley.Moll@wi.gov or by telephone at (608) 224-5039.

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by November 29, 2011, 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 DATCP TDD at (608) 224-5058. Handicap access is available at the hearings.

Hearing Dates and Locations:

Monday, December 12, 2011

6:00 p.m. - 8:00 p.m.
Chippewa Valley Tech College
Room 112
620 W. Clairemont Ave.
Eau Claire, WI 54701

Tuesday, December 13, 2011

3:00 p.m. – 5:00 p.m.

Fox Valley Technical College
DJ Bordini Center, Room 112A
5 Systems Drive
Appleton, WI 54912

Wednesday, December 14, 2011

3:00 p.m. – 5:00 p.m.

Department of Agriculture, Trade and Consumer Protection
First Floor Boardroom – Room 106
2811 Agriculture Dr.
Madison, WI 53718

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

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

- Modifies current rules related to cattle, including rules related to voluntary Johne’s disease testing and classification, tuberculosis import testing, and imports of cattle from states with tuberculosis positive herds.
- Modifies current rules related to equine and equine infectious anemia testing and branding.
- Modifies current rules related to imported poultry.
- Modifies current rules related to farm-raised deer, including rules related to herd registration, hunting preserves, chronic wasting disease testing and the chronic wasting disease herd status program.
- Modifies current rules related to fish farms and fish health, including rules related to fish farm registration, import permits and fish health certificate requirements.
- Modifies enforcement of current rules by allowing a department waiver to rule requirements if reasonable and necessary. Statutory provisions cannot be waived.
- Modifies current rules related to animal markets, dealers and truckers, including rules related to animal identification, record keeping requirements, and facility and vehicle requirements.

- Modifies current rules related to humane officer training, including rules related to fees, training, and humane officer certification.
- Makes minor drafting changes to update, clarify and correct current rules.

Statutes Interpreted

Statutes Interpreted: s. 93.07, 93.08, 93.21, 95.18, 95.19, 95.195, 95.197, 95.20, 95.21, 95.22, 95.23, 95.25, 95.26, 95.30, 95.45, 95.49, 95.50, 95.55, 95.57, 95.60, 95.65, 95.68, 95.69, 95.71, 95.715, 95.72, 173.05, and 173.27, Stats.

Statutory Authority

Statutory Authority: ss. 93.07(1), (10), (10m) and (11), 93.08, 93.21(5), 95.18, 95.19(3), 95.195(4), 95.197(2), 95.20, 95.21(2), 95.22(2), 95.27(8), 95.38(3), 95.45(4)(c) and (5), 95.49(1), 95.50(4), 95.55(1), (3), (5) and (6), 95.57(1), 95.60(2), (3), (4), (4s), (5) and (5m), 95.65(2), 95.68(2m), (4) and (8), 95.69(2m), (4) and (8), 95.71(5) and (8), 95.715(2) and (3), 95.72(5) and 173.27(1) and (3), Stats.

Explanation of Statutory Authority

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

Rule Contents

Definitions and General Provisions

This rule makes the following additions and updates to the definitions used in ATCP 10:

- Creates a definition for commercial swine clarifying that requirements of ATCP 10 apply to commercial swine and not to feral swine.
- Updates the version of the Johne's Disease National Program Standards referenced by rule to the most recent publication date.
- Clarifies that menagerie animals for purposes of this rule are animals kept as part of a collection of multiple different species.
- Updates the version of the National Poultry Improvement Plan (NPIP) and auxiliary provisions referenced by rule to the most recent publication date.
- Removes the prohibition on the use of a blood tuberculosis (BTB) test and allows other tuberculosis tests to be approved by the department. This rule does not authorize the use of a BTB test, but does open the door for rapid approval by the department if a viable BTB test is approved by the USDA.

The current rule allows the department to test an animal at the owner's expense if the animal is not imported or moved in accordance with law. This rule clarifies that the department may conduct testing or order testing be done, at the owner's expense. This rule also authorizes the department to order testing if the animal may have been exposed to a reportable disease listed in ATCP 10, Appendix A and Appendix B.

The current rule requires a certificate of veterinarian inspection (CVI) be issued on a form provided by the department. This rule allows the department to accept CVIs on forms that are approved, but not issued, by the department, facilitating the use of electronic CVIs that meet the department's informational needs but are not on forms issued by the department.

This rule also makes technical changes to the contents of a CVI and incorporates references to ATCP 16 as necessary to make the rule requirements clear and consistent.

This rule clarifies that an import permit issued by the department may be issued verbally and that the import permit number issued must be recorded on the official CVI.

This rule makes technical changes to the import application process and content to make the rule consistent with current practice.

Bovine

Current rules require that a Johne's disease-certified veterinarian renew certification every 3 years. This rule extends the certification period to 5 years, consistent with federal requirements. Current rules allow for bovine animals to be imported into this state without pre-import tuberculosis testing as long as they are imported directly to a federally approved livestock import market. This rule removes this exemption to tuberculosis testing because there are no federally-approved livestock markets for tuberculosis.

Current rules require that bovine animals from an accredited tuberculosis-free state or nation, not normally required to be tested, test negative on a pre-import tuberculosis test if the state or nation has a confirmed tuberculosis positive herd. In the current rule, the pre-import test is required, until the herd is depopulated. This rule modifies that requirement so that bovine animals imported from an accredited tuberculosis-free state or nation, where there has been a confirmed tuberculosis-positive herd, must have a pre-import test until the positive herd is in compliance with state or federal herd plans and all quarantines on the herd have been released. This modification recognizes that herd owners may choose to remain under quarantine and test the animals, as determined necessary by the state and federal officials in compliance with the federal uniform methods and rules, rather than depopulate the herd.

Current rules exempt veal calves from a pre-import tuberculosis test if they comply with established criteria post import. This rule requires that imported veal calves obtain an import permit to qualify for the test exemption in order to ensure the importer understands the post-import requirements for veal calves that do not have a pre-import tuberculosis test.

Equine

The current rule states that no person may sell or transfer ownership of any equine animal without a negative equine infectious anemia (EIA) test. This rule clarifies that a purchaser of an equine animal shares responsibility for ensuring equine animals are tested negative for EIA prior to transfer of ownership.

The current rule allows for an equine animal that tested positive for EIA to be released from a quarantine once branded. This rule corrects the current rule by removing that provision. Branding does nothing to prevent disease spread.

Poultry

The current rule requires imported poultry or poultry eggs be accompanied by a certificate of veterinary inspection (CVI). This rule allows National Poultry Improvement Plan (NPIP) enrolled birds to move into Wisconsin without a CVI if they are accompanied by a federal bureau form VS 9-3. This modification makes our rules consistent with federal rules that allow for interstate movement of NPIP-enrolled poultry and poultry eggs with a valid VS 9-3 that documents the poultry and poultry eggs origination from a NPIP flock.

Farm–Raised Deer

Current rules do not require a registered farm-raised deer keeper to notify the department when going out of business. The lack of notification requires the department waste resources at renewal time, making contacts to verify that the farm-raised deer keeper is out of business and that all farm-raised deer were disposed of in accordance with the rules. This rule requires registered farm-raised deer keepers to notify the department if they go out of business. This notification must include information regarding the disposition of the farm-raised deer.

Current rules have two registration categories for farm-raised deer based solely on number of farm-raised deer kept. This rule adds an additional category of registration for non-commercial farm-raised deer keepers that have fewer than 15 farm-raised deer, that are not enrolled in the chronic wasting disease herd status program, and that do not move live deer from their farms other than directly to slaughter. This rule establishes a lower registration fee of \$85.00 for these deer keepers.

Current rules require a farm-raised deer keeper to report to the department whenever a farm-raised deer in their herd escapes and when the deer is returned to the herd. This rule requires that the farm-raised deer keeper maintain a record of the escape and return dates in addition to filing a report with the department.

Current rules require farm-raised deer keepers to have a chronic wasting disease test performed on all farm-raised deer that die or are killed and are at least 16 months of age. Under this rule, only if the herd is enrolled in the chronic wasting disease herd status program, must all deer that die, are killed, or shipped to slaughter be tested. This rule reduces the requirement for testing of farm-raised deer that die or are killed only for farm-raised deer herds that are not enrolled in the chronic wasting disease herd status program. Testing in those herds is as follows:

- All farm–raised deer that die by accidental death or natural causes.

- Twenty-five percent of all farm-raised deer that are intentionally killed other than at a certified hunting preserve.
- Fifty percent of all farm-raised deer that are killed on the premises of a certified hunting preserve.

Current rules prohibit the commingling of farm-raised deer and bovine animals under any circumstance. This rule allows them to be commingled as long as no live farm-raised deer or live bovine animals are moved off the premises, except to go directly to slaughter under a department-approved form. In practice this commingling is occurring and it would have a significant financial impact on these facilities to separate these animals.

The current rule does not clearly indicate the reasons a hunting preserve certificate could be revoked. This rule clarifies that a hunting preserve certificate could be suspended or revoked for violations of laws governing hunting preserves.

The current rule does not clearly state that a veterinarian conducting a tuberculosis test on farm-raised deer must have initial training. It requires a veterinarian conducting single cervical tuberculosis tests be recertified every three years. Federal standards do not require veterinarians conducting single cervical tuberculosis tests to be recertified every three years. This rule clarifies that initial training is required for certification. The requirement to be recertified is removed in this rule.

This rule makes the following clarifications to the farm-raised deer rule:

- For initial tuberculosis herd certification and maintenance of herd certification, the federal uniform methods and rules must be followed. For tuberculosis and brucellosis herd certification, the fee is \$150 for three years of certification and may be prorated.
- A farm-raised deer keeper must have an active farm-raised deer keeper registration with the department in order to be enrolled in the chronic wasting disease herd status program.

Under current rules all farm-raised deer over 12 months of age must bear official identification and be individually reported on the herd census for both initial and continued enrollment in the chronic wasting disease herd status program. Farm-raised deer under 12 months do not need to bear official identification or be individually reported on the herd census. This rule requires all farm-raised deer, regardless of age, to bear official identification and be individually reported on the initial herd census for enrollment.

Current rules require that all herds that are enrolled in the chronic wasting disease herd status program complete an initial herd census upon enrollment, and annually submit a complete herd census for continued enrollment. This rule attempts to make the requirements for the herd census clearer and less redundant. This rule makes the following substantive changes to the herd census report:

- Current rule requires records of farm-raised deer escapes and returns but neglects to require documentation of escapees that were killed and not returned to the herd. This rule requires that farm-raised deer keepers' report, on their annual census, the date an escaped farm-raised deer was killed and the date the chronic wasting disease sample was submitted.

- Current rule requires that the age of a farm-raised deer be recorded on the annual herd census for both initial and continued enrollment in the chronic wasting disease herd status program. This rule modifies that requirement to the farm-raised deer's month and year of birth.

Under the current rule a herd owner does not need to notify the department of the decision to discontinue enrollment in the CWD herd status program, causing staff to do unnecessary follow-up when an annual census is not received. This rule requires a farm-raised deer keeper that discontinues participation in the CWD herd status program to submit a final census to document the final disposition and number of farm-raised deer in the herd.

Current rules require participants to report to the department if they add to their herds any deer that originate from a herd with a lesser CWD herd status program status. This rule reduces some of this paperwork requirement. Under this rule no change in herd status would result as long as all farm-raised deer added to the herd originate from herds with at least five years status in a recognized CWD herd status program. After attaining five years in the CWD herd status program, or an equivalent out-of-state program, animals can move legally. It is inefficient and unnecessary to track specific status of a herd after five years. Any animals added to a herd with less than five years CWD herd monitoring status will continue to result in the lowering of the receiving herd's status to the lowest status of the added animals.

Under current rules a veterinarian is required to apply official identification, if not already present, to any farm-raised deer tested for specified diseases, including CWD. This rule clarifies that veterinarians are required to officially identify a farm-raised deer when they test farm-raised deer, as well as when they are collecting test samples.

Fish Farms

Current rules require fish farmers to record the livestock premises registration, if any, of the source premises and destination premises of any fish or fish eggs shipped from, or to, the fish farm. This rule removes the requirement. This requirement is considered unnecessary because all registered fish farms in the state have a premises registration number which the department has in its records.

The definition of a fish farm under current rules has proven to be cumbersome and difficult to interpret. This rule seeks to clarify the definition by specifying the purpose for which the fish are held. Additionally, the rule more clearly defines what is considered a wild source, both in this state and in other states.

Under current rules, fish farm records, health certificates and import permits must identify all fish and fish eggs on the farm or in the shipment of fish, as applicable, without exception. This standard has proven unworkable. Individual shipments of fish, and fish farms themselves may have trace amounts of live fish or fish eggs that are not intended to be on the fish farm, or in the shipment, and are nearly impossible to detect or remove. This rule recognizes that difficulty and requires that fish farm records, health certificates and import permits list all the species that are intended to be in the shipment or kept at the fish farm. A species of fish in the shipment or on the

fish farm that is not a listed species is considered to be incidentally or unknowingly included in the shipment or located on the fish farm.

Current rules require that any means used to render water pathogen-free be approved by the department. This rule removes the requirement for department approval. Water treatment methods to disinfect for pathogens are currently not standardized.

Under current rules some activities are exempt from the requirement to have a fish farm registration. This rule creates the following additional exemptions from the fish farm registration requirement:

- Educational facilities that hold or rear live fish or fish eggs as long they are in fully enclosed buildings for the remainder of their lives, and all of the following apply:
 - Live fish or fish eggs are not commingled with fish intended for other purposes.
 - Water used to hold the fish is not discharged to waters of the state, unless it is treated.
 - All of the dead fish and offal from the building are disposed of by rendering, composting, municipal solid waste disposal, or other approved methods.
- Temporary public fishing events if they meet the following criteria:
 - No fish leave the event live, unless returning to the farm of origin or going directly to slaughter.
 - Fish are held in a self-contained enclosure.
 - Fish are not commingled with fish from another source.
 - Water used to hold the fish is not discharged to waters of the state, unless it is treated.
 - The event lasts no more than 15 days.
- Holding or rearing live fish solely for the purpose of sale as pet fish for personal home aquaria, provided that they are not commingled with fish or fish eggs that will be used for other purposes, and the facility does not discharge to waters of the state any untreated water used to hold or process those fish or fish eggs.

This rule authorizes a holder of a type 1, 2, or 3 fish farm to sell fish from a location other than the registered fish farm directly to consumers, provided that the registered fish farm operator does the following:

- No fish leave the event live, except to return to the farm of origin or directly to slaughter.
- Fish are held in a self-contained enclosure.
- Fish are not commingled with fish from any other source.
- Water used to hold the fish is not discharged to waters of the state, unless it is treated.
- The fish farm operator keeps records for 5 years on the direct sale of the live fish or fish eggs including address of sale location, species and quantity delivered to

the location, sold at the location, taken to slaughter and returned to the fish farm of origin.

This rule creates a process to amend a registration during the registration year, without requiring a new application for a fish farm registration. The amendment can add or remove ponds, change registration type or combine previously separated fish farms operated by the same legal entity on the same or contiguous parcels. This process:

- Does not exempt the fish farmer from paying any applicable fees when changing fish farm type.
- Does not exempt the fish farmer from meeting current requirements to change from a type 3 to type 2 fish farm.

Current rules require medical separation if two fish farms are registered separately on the same premises, regardless of type. Currently, a fish health certificate is required for any movement of fish or fish eggs between those fish farms. This rule requires a fish health certificate only for species the federal bureau has found to be susceptible to viral hemorrhagic septicemia and only if the fish or fish eggs are leaving a type 3 fish farm. Under this rule, medical separation is required only when one of the farms is a type 3 fish farm.

Current rules require a fish health certificate on fish or fish eggs moved between fish farms in this state or from a fish farm to any other location in this state including waters of this state. This rule removes the requirements for a fish health certificate for fish or fish eggs moved between fish farms in this state or to other locations in this state (except into waters of the state), unless the species of fish or fish eggs has been found to be susceptible to viral hemorrhagic septicemia (VHS) and the fish or fish eggs are coming from a type 3 fish farm. Fish health certificate requirements for fish or fish eggs moved into waters of the state remain unchanged. This rule makes the following changes to fish import permit requirements:

- Changes the fish import permit to expiration on the next December 31, rather than a year from issuance.
- Allows a single import permit to be valid for imports from multiple sources. Additional sources cannot be added after issuance of the import permit. If sources of fish are being added, an additional import permit must be obtained. Current rules require an annual import permit for each source.
- Clarifies that every import shipment must be covered by a valid fish health certificate and an import permit.
- Expands exemptions to the requirement for a fish import permit to include educational facilities that meet established criteria.
- Creates an exemption to the requirement for a fish import permit for bait imported for personal use. The exemption is limited to 600 fish or fish eggs in the shipment, and limited to species not susceptible to VHS.
- Removes the requirement that an import permit application list fish or fish egg recipients. Requires this information be kept by the person required to hold the import permit.
- Clarifies that records kept by the importer on the destination of the imported fish must be made available to the department upon request.

- Removes the requirement that fish health certificates be submitted with the import permit application. All fish health certificates must be kept in the import permit holder records, a copy must accompany the import shipment, and a copy of the fish health certificate is required to be supplied to the department when it is issued by a fish health inspector.
- Requires fish health certificates cover all listed species of fish or fish eggs imported under the permit.

This rule makes the following changes to fish health certificate forms and contents:

- Allows for forms, other than DATCP's, to be used, as long as the forms are approved by the department. The current rule requires the form be *provided by* the department.
- Reduces VHS testing required on imported fish. VHS testing, under this rule, is required only on susceptible species (as defined by the federal bureau) from states or provinces where the disease is known to exist. The current rule requires testing of all live fish or fish eggs imported from known VHS-infected states and regions. This change will make Wisconsin consistent with federal requirements.
- Allows for egg disinfection processes, as approved by the federal bureau, as an acceptable method of ensuring the disease-free status of fish eggs. Under current rules, fish health certificates are based on testing of the brood stock.

Sheep and Goats

This rule exempts imported sheep and goats from the requirement of a certificate of veterinary inspection if the sheep and goats are going to a federally-approved import market.

Other Animals

The current rule allows dogs and domestic cats to be imported into this state if they do not have a current rabies vaccination, but requires that the animal be vaccinated within 30 days after the dog or domestic cat enters the state. This is extremely difficult to monitor and enforce. Under this rule, all dogs and domestic cats must have a current rabies vaccination in order to be imported, unless the dog or domestic cat is under 5 months of age. This rule requires that an imported dog or cat under 5 months of age must be vaccinated for rabies by a licensed veterinarian, by the date on which the dog or cat reaches 5 months of age.

The current rule requires animals imported for racing events to get an import permit as well as a CVI, with testing appropriate for the species being imported. This rule removes the specific requirement for racing animals to get an import permit. All animals used for racing will still need to comply with the CVI and import requirements appropriate for the species.

Enforcement

This rule creates a waiver process that will allow the department to grant an individual a waiver from any requirements under ATCP 10, if the department finds that the waiver is reasonable and

necessary under the circumstances and will not compromise the purpose served by the rule. This waiver is a written department order and may not waive any statutory requirements.

Appendix B

The current rule requires a person who diagnoses, or obtains, credible diagnostic evidence of a disease listed in appendix B report that finding to the department within 10 days. This rule removes equine rhino pneumonitis from appendix B and adds equine herpes virus. Rhino pneumonitis is a form of equine herpes virus and the use of equine herpes virus will catch all equine herpes viruses, of which there are nine forms.

This rule also updates the spelling of some listed diseases to the American spelling.

Animal Markets, Animal Dealers and Animal Truckers

The current rule requires a licensed and accredited veterinarian to write a graphic description as official identification for an equine animal. This rule allows for department or USDA-approved staff to write a graphic description of an equine animal.

The current rule requires that the person having custody of the animal have a reader in order for a microchip to be a valid form of official identification. This rule deletes the provision. Current readers can read a multitude of different brands of microchips.

Current rules do not require official identification for animals that are received by a person licensed under ATCP 12 for shipment to slaughter. It has not been clear what qualifies as shipment to slaughter. This rule defines “shipment to slaughter” in order to allow licensed markets and dealers to congregate enough animals, at a single premises, to go to slaughter in a cost effective manner, as long as there is no change of ownership, without having to apply official identification to the animals. The process of “shipment to slaughter” cannot exceed 10 consecutive days. Downer animals may not be held for more than 24 hours before being sent for rendering or euthanized in a humane manner.

This rule includes the statutory exemption from animal market licensure for occasional auctions by breed and youth groups, and specifies the entities that must maintain the records of those sales.

The current rule requires that licensed animal markets clean and disinfect between public sales. This rule removes that requirement. Markets are still required to maintain their premises in a clean and sanitary condition. Cleaning and disinfection is only required when a suspect or reactor animal is known to be present.

The current rule requires equine markets to have equine stocks. This rule allows more flexibility for equine market operators, but requires that the equine be restrained in a safe and humane manner. Equine stocks are not required.

This rule clarifies that all animals at licensed animal markets must be confined in a safe and humane manner.

Current rules require dead animal holding areas and manure holding areas to be enclosed, or the entire market fenced, to keep out dogs and wild animals. This rule removes that requirement. In practice, it is not practical to keep gates closed at all times, or to build a fence that could keep out all wild animals.

Current rules exempt a licensed animal market operator from the requirement to have an animal dealer license. This rule clarifies that the exemption also applies to an employee of a licensed animal market operator who acts solely on behalf of the licensed animal market.

Current rules prohibit a licensed animal market from accepting delivery of livestock or wild animals from an unlicensed animal trucker, if the operator knows, or has reason to know, that the animal trucker is unlicensed. This rule expands this requirement to prohibit accepting livestock or wild animals from an unlicensed animal dealer, as well, if the market operator has reason to know that the animal dealer is unlicensed.

Current rules require the operator of an animal transport vehicle to display the operator's name, license number and business address on both sides of the vehicle. This rule allows that information to be displayed either on both sides of the transport vehicle or on both sides of the power unit. Additionally, this rule requires only the city and state, rather than the full address, be displayed. The requirement that vehicle stickers, indicating current licensure, be displayed on both sides of the transport vehicle remains unchanged.

Current rules require vehicles used to transport diseased or downer animals to be cleaned and disinfected before being used to transport other animals. The disinfectant used must be approved by the department. This rule removes the requirement that a disinfectant must be approved by the department. Disinfectants must be used according to label instructions but need not be approved by the department.

The current rule requires that persons licensed under ATCP 12 record any official identification present on an animal whether or not the official identification is required. This rule modifies this provision, requiring the official identification to be listed in the records only if the animal is required to bear official identification.

Current rules require a licensed animal trucker to keep the same records as a licensed animal market or animal dealer. This is duplicative since the animal market or animal dealer will record the official identification of all animals, thus insuring traceability. This rule reduces the record keeping requirements for animal truckers by removing the requirement to record the official identification of all animals. This rule retains the licensed animal trucker's obligation to keep other records of the source, destination, number and general description of the animals and applicable premises codes. Slaughter identification is also required if shipping to slaughter. Additional information is required when an animal dies in the animal trucker's custody.

Current rules require licensed facilities that handle downer animals to register with the department and be equipped in a specified manner to handle them humanely. Federal law now prohibits these downer animals from being sent to slaughter, eliminating the market for downer animals. Therefore, there will not be animal markets or animal dealers that intentionally handle downer animals. This rule removes the requirement of registering with the department. Licensed

entities will still be required to handle animals that become downer animals while they are in a licensee's possession in a humane manner that is prescribed in the current rule.

The current rule restricts the commingling of different animal species during transit. This rule clarifies that different animal species cannot be commingled if they are not of a comparable size, or if one species poses a known disease threat to the other species being hauled.

This rule prohibits an animal market, animal dealer, or animal trucker from selling, moving or disposing of any live animal, that has been tested for a disease identified in ATCP 10 *Appendix A or B*, before the result of that test is known.

This rule makes minor technical changes to the rule, removes outdated references and corrects errors.

Humane Officer Training and Certification

The current fee to be certified as a humane officer is \$25. This rule increases the application fee to \$35 and clarifies that this fee is nonrefundable.

Current rules require certified humane officers to complete 32 hours of continuing education (CE) in order to renew the biennial certification. (This requirement does not apply at initial certification because humane officers have already just completed an initial 40-hour training program.) This rule clarifies individuals who allow their certification to expire, will still need to demonstrate compliance with the requirement for 32 hours of CE before the certification will be renewed. If more than 2 years expired, other rules apply (see below). If the CE courses taken to comply with the 32 hours of CE are taken in the current certification biennium, this rule clarifies that those continuing education hours will count towards the renewal certification only. To renew the following biennium, the individual will need to complete an additional 32 hours of CE.

Current rules do not specify whether after humane officer certification expires, the person may renew the certification, or must apply as a new applicant. This rule clarifies humane officers that allow their certification to expire, and remain expired for over two years, must apply as a new applicant, retake the initial training required and pass the test. Certifications which have been expired more than 2 years may not, therefore, be renewed.

This rule also clarifies that late fees will apply if the certification has expired.

This rule requires certified humane officers to notify the department of changes in name, address and phone numbers that occur during the certification period.

Current rules set minimum education hours requirements for each topic of the humane officer training program. This rule keeps the requirement that the humane officer training program provide at least 40 hours of training, but removes the specific hours required for each topic. Under current rules, a person who takes the initial exam to be certified, and fails it twice, may not retake it. This rule allows for the exam to be retaken but only if the person retakes the training program.

Re-inspection Fees

The department has statutory authority to assess a re-inspection fee on a licensed or registered entity, if during a previous inspection, violations are noted that require the department's staff to come back and verify that compliance has been achieved. This rule codifies the authority for re-inspection fees, and sets the re-inspection fee at \$150. Our focus is on education and progressive enforcement and these fees are not expected to generate significant future routine revenue.

Fiscal Impact

This rule will not have a significant state or local fiscal impact. This rule reduces overall revenue to the state by an estimated \$3,200 in the following manner:

- This rule creates an additional category of farm-raised deer keeper that has a lower fee. The department estimates that this provision will affect 44 currently registered deer farmers, allowing them to register at the lower fee, reducing state revenues by \$3,400.
- This rule increase the fee for humane officer certification by \$10 (from \$25 to \$35) generating \$240 in additional revenue annually.

Business Impact

This rule will have a generally positive impact on business. This rule will have few, if any, negative impacts on business. Negative impacts, if any, will be limited.

Economic Impact

This rule will have no impact on local units of government or public utility rate payers. This rule will have limited impact on specific businesses and business sectors a majority of which are small businesses as summarized above. In general this rule will have a generally positive impact on the effected industries.

This rule's overall economic impact is limited in scope and will not have an impact on the overall economy of the state.

Federal and Surrounding State Programs

Federal Programs

Most animal health regulations are adopted and administered at the state level. However, the United States Department of Agriculture (USDA) administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state. States certify the disease status of certain herds, at the request of herd owners, to facilitate interstate movement of animals from those herds. States also license and regulate entities such as animal markets, animal dealers and animal truckers (regulations vary by state).

State regulation of interstate animal movement is generally consistent with federal standards, where applicable. However, states may impose additional import requirements if those requirements are reasonably designed to prevent the spread of disease, and do not impose an unreasonable burden on interstate commerce.

Wisconsin's current rules related to farm-raised deer are consistent with applicable federal rules. However, USDA is proposing changes to federal rules related to CWD in farm-raised deer. The proposed federal rules may modify current testing and monitoring requirements for interstate movement, and may modify current identification requirements for interstate movement. DATCP may modify current state rules in the future, as necessary, to be consistent with the new federal rules.

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

Surrounding State Programs

General

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

Aquaculture

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

- Minnesota requires fish import permits, and licenses fish farms and fish dealers. Health certification is required for fish imports, but not for fish farms. Bait imports are prohibited.
- Iowa requires fish import permits, and licenses fish farms. Health certification is required for fish imports, but not for fish farms.
- Illinois licenses fish farms and fish dealers. An import permit and health certification is required for certain fish imports (salmonids). There is limited regulation of fish transport vehicles.
- Michigan licenses fish farms. Health certification is required for fish imports.

Farm-raised Deer

All of the surrounding states require CWD testing of farm-raised deer:

- Illinois requires any farm-raised deer dying from an unknown cause that has exhibited neurological disorder be tested for CWD, and any farm-raised deer exhibiting symptoms of CWD to be destroyed and tested, or quarantined until it can be determined that the animal does not have CWD.

Additionally, two 'voluntary' CWD herd monitoring programs have been established ("Certified Monitored" and "Contained Monitored") - intrastate movement or sales of farm-raised deer are contingent upon participation in one of the programs.

- Iowa requires that farm-raised deer purchased or moved be enrolled in a CWD surveillance program. The voluntary surveillance program requires collecting and submitting appropriate samples from all cases of mortality, including slaughter, in animals 16 months of age and older and requires copies of the laboratory reports to be maintained.
- Michigan requires mandatory CWD surveillance; all death losses due to illness in farm-raised deer herds for deer that are over 12 months of age, and 25% of hunted/culled deer must be reported to Department of Agriculture and samples submitted for CWD testing.
- Minnesota requires mandatory CWD testing for all farm-raised deer.

Animal Markets, Animal Truckers, and Animal Dealers

All surrounding states license Animal Markets and Dealers. These licensed entities are required to meet minimum standards regarding facilities and animal handling, and record keeping.

Humane Officers

- Iowa has no related program.
- The Minnesota Federated Humane Societies (MFHS) is authorized to provide a one-day training class on the Minnesota animal laws and related topics. The MFHS administers a test at the end of the one-day training, and certifies those that pass. There is no requirement for additional training or continuing education.
- Michigan requires individuals to complete 100 hours of training classes, or other experience on their own. Documentation of the training is submitted to the Michigan Department of Agriculture for approval. If the training is approved, the department issues a letter of approval. The individual is then able to seek employment with a jurisdiction. No additional continuing education is required.

- Illinois requires volunteers that are sponsored by a humane society, to attend a ½ day training course conducted by the Department of Agriculture reviewing the animal laws of the state. An exam is then administered after the review. The individual must pass the test once every 2 years to maintain certification. The individual is then authorized to conduct investigations of animal welfare complaints. No additional continuing education is required.

Data and Analytical Methodologies

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

Standards Incorporated by Reference

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

- *Program standards for the national voluntary Johne’s disease control program*, United States department of agriculture, animal and plant health inspection service, publication number 91-45-016 (September, 2010).
- *National Poultry Improvement Plan and Auxiliary Provisions*, United States department of agriculture, animal and plant health inspection service, publication number 91-55-088, (July, 2011).

Dated this _____ day of November, 2011.

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

By _____
Ben Brancel, Secretary