



State of Wisconsin  
Governor Tony Evers

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**Department of Agriculture, Trade and Consumer Protection**

**DATE:** December 10, 2019

**TO:** The Honorable Roger Roth  
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State Capitol  
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The Honorable Robin Vos  
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**FROM:** Randy Romanski, Interim Secretary  
Department of Agriculture, Trade and Consumer Protection

**SUBJECT: Animal Diseases and Movement and Animal Markets, Dealers,  
and Truckers, Chs. ATCP 10 and 12; Final Draft Rule  
(Clearinghouse Rule #18-085)**

*Introduction*

The Department of Agriculture, Trade and Consumer Protection (DATCP) is transmitting this rule for legislative committee review, as provided in s. 227.19 (2) and (3), Stats. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19 (2), Stats.

*Background*

Wis. Admin. Code ch. ATCP 10 specifies requirements relating to animal diseases and movement. Wis. Admin. Code ch. ATCP 12 specifies requirements for animal truckers, markets, and dealers. This proposed rule package will modify current animal health rules to provide for clarity and consistency.

The hearing draft associated with this rule package proposed increasing farm-raised deer enhanced fencing requirements and restricting movement based on CWD affected county status. The department has determined to remove changes to farm-raised deer enhanced fencing requirements and movement restrictions from the final rule draft.

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The hearing draft associated with this rule package proposed requirements for brucellosis canis and heartworm testing and treatment for dogs imported into Wisconsin. The department has determined to remove these changes from the final rule draft.

### ***Rule Content***

Wis. Admin. Code ch. ATPC 10 specifies requirements relating to animal diseases and movement, and Wis. Admin. Code ch. ATPC 12 specifies requirements for animal truckers, markets and dealers. This proposed rule makes the following modifications:

#### ***Definitions***

Some definitions have been updated to reflect appropriate terminology.

*Equine infectious anemia test (EIA)*. The current rule requires the EIA test to be conducted in a laboratory approved by the department *or* the federal bureau. The proposed rule requires an EIA test to be conducted in a laboratory approved by the department *and* the federal bureau.

*Feed lot*. The proposed rule creates this definition as a facility at which feeder cattle are assembled for feeding prior to slaughter.

*Farm-raised deer keeper*. The proposed rule adds “Farm-raised deer keeper” to the current definition of “Keeper of farm-raised deer” as both terms are used throughout Wis. Admin. Code ch. ATPC 10.

*Livestock*. The proposed rule clarifies that the term applies to South American camelids (llama, alpaca, vicuna, and guanaco) and not all camelids.

*Slaughtering establishment*. The current rule specifies that a slaughtering establishment must be licensed by the department or subject to inspection by the USDA, which is not accurate. The proposed rule specifies that a facility must be both licensed and inspected and the licensing and inspection may be by either by the department or USDA. The proposed definition also encompasses an *approved* intermediate livestock handling facility if the latter is affiliated with a slaughtering establishment.

*Tuberculosis test*. The current rule specifies the tests that may be used for Tuberculosis. The proposed rule specifies that a post axillary Tuberculosis test may be used for all camelids (not just South American camelids) but not for exotic ruminants.

The proposed rule replaces the definition term “Axillary tuberculosis test” with “Post axillary tuberculosis test” to accurately define the test to be used when testing camelids for Tuberculosis.

*Wild deer disease control area*. The proposed rule creates this definition to mean a CWD-affected area designated by the DNR under Wis. Admin. Code ch. NR 10 or other disease area affecting wild cervid designated by the DNR or the department.

### *Medical Separation*

Currently, medical separation provisions are listed under farm-raised deer and fish farms, respectively, as these are the species for which medical separation is most requested. The current rule requires fencing and facilities to be adequate to maintain separation of animals at all times. Current medical separation inspection fees are \$200 for farm-raised deer and \$400 for fish farms. The \$400 fee more accurately reflects the cost involved with these inspections.

The proposed rule creates a new section relating to medical separation of *any* species. The proposed rule reflects the federal requirement that fencing and facilities must maintain at least 30 feet of separation at all times for bovine animals and farm-raised deer. Medical separation fees are \$400 for each day (or portion of a day) needed to complete the inspection. Also see medical separation requirements for Federally Approved Livestock Marketing Facilities, below.

Both the current and the proposed rule specify that no inspection is required for the renewal of an existing medically separated premises if the department has previously inspected the premises for medical separation, and there have been no changes in registration, licensure, certification, ownership, or use of premises.

### *Disease Reporting*

Appendices A and B list diseases that must be reported to the department within one day or 10 days, respectively. The proposed rule updates the diseases listed in these appendices.

The proposed rule requires that a person who reports a disease listed under either of the appendices must include the official individual identification of the animal tested. If the animal has no official individual identification, the person collecting the test sample must apply such identification to livestock (other than fish) or another appropriate identifier for other non-livestock animals. Identification must be applied prior to collecting the test sample.

The proposed rule specifies that if the state veterinarian determines that a new disease is reportable because it presents a threat to animals or humans in the state, he or she may issue an order to make the disease reportable within one or ten days.

The proposed rule requires that test samples for Brucellosis, Johne's disease, pseudorabies, Tuberculosis, chronic wasting disease, and viral hemorrhagic septicemia, be submitted to a laboratory approved by the department.

### *Wisconsin Certified Veterinarians*

The current rule specifies requirements for a veterinarian to automatically become a Wisconsin certified veterinarian. It also specifies reasons for decertification. The proposed rule requires Wisconsin certified veterinarians to follow accreditation standards under 9 CFR 160-162 or risk suspension or revocation of Wisconsin certification. The proposed language clarifies the department's authority, thereby allowing the department to take swift action if a veterinarian

does not follow accreditation standards. This authority is not new, but it will allow the department to be more responsive when action is needed.

### *Brucellosis Testing and Control*

The current rule specifies Brucellosis testing and control requirements under bovine, farm-raised deer, and swine portions of the rule. The proposed rule creates a new, general section relating to Brucellosis testing and control that applies to *all* animals and deletes the Brucellosis provisions currently related to bovine, farm-raised deer, and swine.

### *Tuberculosis Testing and Control*

The current rule lists most of the provisions relating to Tuberculosis testing and control in a general Tuberculosis testing and control section as it pertains to all animals. The current rule also lists Tuberculosis requirements under bovine and farm-raised deer portions of the rule. The proposed rule will consolidate all the Tuberculosis testing and control requirements into the general Tuberculosis testing and control section.

### *Certificate of Veterinary Inspection (CVI)*

The current rule requires the number, species, breed, sex, and age of animals included in a shipment to be listed on the CVI. The proposed rule requires that the purpose of movement also be listed on the CVI.

The current rule requires the veterinarian that signed the CVI for imported animals to file copies with the department and the chief livestock health official in the state of origin within 7 days after movement. The proposed rule reflects federal requirements by requiring the veterinarian to file copies with the chief livestock health official in the state of origin within 7 calendar days of issuance and requires the chief livestock health official (rather than the veterinarian) to file the certificate with the department within 7 calendar days of receipt. If the state of origin does not have a chief livestock health official who submits certificates of veterinary inspection for a particular species, the veterinarian who signs the certificate must file copies with the department within 7 calendar days after issuance.

The current rule requires a Wisconsin certified veterinarian who issues a CVI for export or intrastate movement of Wisconsin animals to file copies with the department within 7 days after the export or intrastate movement. If the animals are being exported, the veterinarian must also file a copy of the CVI with the chief livestock health official of the state of destination. The proposed rule reflects federal requirements by requiring the veterinarian to file copies with the department within 7 calendar days after issuance. If the animals are being exported, the department (rather than the veterinarian) must file a copy of the CVI with the chief livestock health official of the state of destination within 7 calendar days of issuance.

### *Federally Approved Livestock Marketing Facilities*

The current rule requires federally approved livestock marketing facilities to meet certain requirements in order to qualify as such a market. The proposed rule also requires these facilities to:

- Be licensed as a Class A animal market.
- Be medically separated.
- Test animals for specified diseases prior to import.

### *Intermediate Livestock Handling Facility Certification*

The current rule specifies requirements to be approved as an intermediate livestock handling facility under bovine imports. The proposed rule moves these requirements to the general import section because these facilities may handle a variety of imported species, including bovine. The proposed rule also specifies that the department will grant or deny an intermediate livestock handling facility certificate within 60 days after a complete application is filed and charge a nonrefundable fee of \$140 for the certificate. The certificate will expire June 30, annually. The proposed rule specifies the reasons for which a certificate may be denied, suspended, or revoked; allows the department to make certificates conditional; and requires that animals imported to a certified handling facility be tested for diseases specified under the rule prior to import.

### *Tuberculosis-Free Herd Certification*

The current rule allows a herd of bovines, farm-raised deer, and goats to be certified as tuberculosis-free. The proposed rule clarifies that all commingled species must be of comparable tuberculosis status or risk suspension or revocation of certification.

### *Johne's Disease Certified Veterinarians*

The current rule requires that veterinarians recertify for Johne's risk assessment or management plans (RAMPs) and Johne's vaccination every five years, and pay an initial and renewal fee of \$50. The proposed rule eliminates the renewal requirement and the fee for initial certification.

### *Bovine Identification*

The current rule specifies slaughter identification requirements under Wis. Admin. Code ch. ATCP 10 that differ slightly from the requirements under Wis. Admin. Code ch. ATCP 12. The proposed rule will make the provisions the same, including deleting the requirement of where a back tag must be placed.

### *Swine Slaughter Identification*

The current rule requires a slaughtering establishment operator to apply (if the swine does not already have it) an official back tag, premises identification number ear tag, or other approved slaughter identification if the animal does not already have official identification. The following

information must be recorded: The animal's identification, date of receipt, name and address of the person from whom the animal was received, and the swine's class.

The proposed rule will require a slaughtering establishment to apply identification to swine only if the animal does not pass the inspection process completed by state or federal inspectors or if the animal is tested for disease at the facility. Information must be recorded only if the animal is required to have identification applied.

The current rule requires that slaughtering establishments record the date identification was applied to the swine, if applicable, or a note that the swine already had identification upon arrival. The proposed rule no longer requires this information to be recorded.

### *Bovine Animal and Goat Imports*

The current rule specifies bovine and goat import requirements. Except bovine animals and goats going directly to slaughter, no person may import a bovine animal or goat originating from a tuberculosis modified accredited state or a modified accredited zone in a state which has split multiple tuberculosis statuses (as determined by USDA) unless that person meets certain requirements.

One of those requirements is to obtain an import permit which will require the owner of a bovine animal or goat imported from a tuberculosis modified accredited state to have the animals tested for tuberculosis. The proposed rule clarifies that this provision pertains to owners of bovine animals and goats imported from a modified accredited zone as well.

### *Swine Disease Testing*

*Diseases to be tested.* The current rule requires that swine be tested for Porcine Reproductive and Respiratory Syndrome (PRRS) and the Swine Enteric Coronavirus Disease (SECD) within 90 days prior to movement into or within Wisconsin.

The proposed rule requires swine to be tested for Porcine Epidemic Diarrhea virus (PEDv) rather than SECD. Testing for SECD includes testing for the Porcine Deltacoronavirus (PDCoV), Transmissible Gastroenteritis (TGE), and PEDv. At the time the rule requirements were originally developed, the United States Department of Agriculture (USDA) required reporting of PEDv and PDCoV. However, recently, the USDA discontinued the required reporting of these diseases. Although no longer required to be reported, PEDv remains a devastating disease in swine, causing diarrhea and vomiting, and death of 50-100 percent of infected piglets. Thus, the proposed rule will require that swine continue to be tested for PEDv. While harmful, PDCoV and TGE are not nearly as damaging, so testing for these diseases will no longer be required. Since the current rule became effective, all of the SECD positive cases for which herd plans have been developed have been for weak positive for PDCoV. It has also been found that birds carry their own Delta coronaviruses that can interfere/cross-react with the swine tests. There is no cost effective or reasonable test for producers to differentiate between the avian and porcine viruses.

The state veterinarian granted an order waiving requirements for PDCoV testing on March 27, 2018.

*Number of swine tested in pooled samples.* The current rule specifies requirements for pooled sample testing of swine for PRRS and SECD. Again, except for PEDv, swine will no longer be tested for the diseases that fall under SECD. Currently, if using the method of collecting a pooled sample of swine by hanging a cotton rope in a group of swine:

- Herds with less than 150 swine must have one pooled sample of swine collected and tested. The number of swine to be pooled for samples is determined by the owner in consultation with the herd veterinarian.
- Herds with 150 or more swine must have three pooled samples of at least five swine collected and tested.

The proposed rule maintains the testing requirements for herds with less than 150 swine, but changes the requirements for testing herds with 150 or more swine as follows:

- Herds with 150 to 299 swine must have two pooled samples of swine collected and tested.
- Herds with 300 or more swine must have three pooled samples of swine collected and tested.
- The number of swine to be pooled for samples in either scenario must be determined by the owner in consultation with the herd veterinarian.

*Imports.* The current rule requires that swine imported to Wisconsin, with some exceptions, test negative for PRRS and the SECD within 90 days prior to import. Swine that test positive or that are not tested may be imported to Wisconsin with an import permit. Upon arrival to Wisconsin, the swine imported and/or swine at the premises will be quarantined until a herd plan is developed by a Wisconsin certified, accredited, licensed veterinarian and approved by the department.

The proposed rule:

- Allows the herd plan to be developed by an accredited veterinarian in another state, but the plan must still be approved by the department.
- Exempts swine imported to a licensed animal market from having to test for PRRS and PEDv (formerly SECD) prior to import if all swine on the market premises the day of sale are shipped directly to slaughter. However, under this scenario, the swine must still be accompanied by a CVI unless going to a federally approved livestock market.
- Clarifies that swine imported directly to a federally approved livestock marketing facility do not have to get an import permit if there is a negative PRRS and PEDv (formerly SECD) test from the swine's herd of origin conducted within 90 days prior to movement.

*Movement within Wisconsin.* For intrastate movement, the current rule requires that documentation of negative PRRS and SECD test reports be made available to the department

upon request. The proposed rule requires test reports of PRRS and PEDv to be made available at the time of sale as well as to the department upon request.

The current rule provides PRRS and SECD testing exemptions for swine moving intrastate. The proposed rule adds an exemption for commercial swine moving directly to an animal market if all the swine on the market premises the day of the sale are shipped directly to slaughter.

The current rule requires the exhibitor of commercial exhibition swine that originate from Wisconsin and return to Wisconsin after an exhibition in another state to notify the department before returning to Wisconsin. The proposed rule exempts exhibitors from providing this notification if the out-of-state exhibition organizer requires all participating swine to have originated from herds that have tested negative for PRRS and PEDv (formerly SECD) within 90 days prior to the event.

Also see swine information under “*Fairs and Exhibitions.*”

#### *Equine Infectious Anemia (EIA)*

The current rule requires, with some exceptions, EIA testing when purchasing, selling, or transferring ownership of any equine animal. EIA testing is not required when:

- An equine animal is *consigned* to an animal dealer or market, or *sold* to an animal market operator for sale directly to slaughter, or
- The dealer/market has the animal tested for EIA within 10 days after the animal is received/purchased.

The provisions relating to markets are unclear, and the usage of the term *consigned* for animal dealers (and markets) versus *sold* for market operators is confusing. Also, markets are required to remove animals from the premises within 4 days of receipt (unless awaiting test results). Thus, it is not permissible for markets to wait 10 days to test an animal.

The proposed rule will clarify that EIA testing is not required when an equine animal is consigned or sold as follows:

- To an animal dealer, provided the animal dealer ships the animal directly to slaughter or has the animal tested for EIA within 10 days after its consignment or sale to the dealer, or arrival at the premises. Until the negative EIA test results are obtained, the dealer may not consign, sell, or move the animal from the premises or allow the animal to commingle with other animals.
- To an animal market, provided that the animal market operator ships the animal directly to slaughter or has the animal tested for EIA within 4 days after it arrives at the premises. Until the negative EIA test results are obtained, an equine animal may not leave the premises or be commingled with any other animal.



### *Equine Animal Imports*

The current rule specifies equine import requirements. With some exceptions, no person may import an equine animal unless the animal has tested negative on an equine infectious anemia test (EIA) conducted within a certain timeframe.

One of those exceptions is to obtain an import permit which will allow the animal to be imported if samples are collected from the animal prior to import, and the animal is confined to the premises and not commingled upon import until negative test results are received. The proposed rule deletes this exception.

### *Poultry and Farm-Raised Game Birds*

*Enrollment requirements.* The current rule requires poultry and eggs used for breeding, hatching, or exhibition to originate from a certified flock or be individually tested for certain diseases. A certified flock includes a flock enrolled in the national poultry improvement plan (NPIP), a Wisconsin tested flock, or a Wisconsin associate flock.

The proposed rule will no longer require persons to enroll their flock in a Wisconsin tested flock or Wisconsin associate flock with the department. Instead, a flock owner must provide documentation of being a Wisconsin tested flock or Wisconsin associate flock by completing a department approved form that requires certain information to be listed. This new form will include the same information as the application currently used to apply for flock certification from the department. The Wisconsin tested flock form will be valid for one year from the date the disease testing was conducted. The Wisconsin associate flock form will be valid as long as all birds or eggs introduced to the flock are acquired directly from a Wisconsin tested flock, a Wisconsin associate flock, or a flock enrolled in the National Poultry Improvement Plan.

The proposed rule requires that poultry and eggs exhibited at fairs or poultry shows (rather than those used for breeding, hatching and exhibitions) to either: reside in a flock that is certified under NPIP; have a completed, valid Wisconsin tested flock form or Wisconsin associate flock form; or be an individual sexually mature bird tested for certain diseases.

The current rule requires a person who sells poultry or eggs from certified flocks (or individually tested birds) to provide a copy of the flock certification (or individual bird test) to the buyer and to report the sale to the department.

The proposed rule requires these persons to provide a copy of a current NPIP flock certification, a Wisconsin tested flock form, a Wisconsin associate flock form, or individual bird tests to the buyer and to maintain poultry sale information (rather than report the information to the department). Sale information must be maintained for at least 3 years and be made available to the department for inspection and copying upon request.

The current rule provides an alternative method for youth exhibiting poultry at county fairs. The proposed rule deletes this provision as it is rarely, if ever, used.

*National Poultry Improvement Plan (NPIP).* The current rule specifies that the department may certify a flock as U.S. pullorum typhoid clean or *Mycoplasma gallisepticum* clean, or both, according to standards set forth in the national poultry improvement plan.

The proposed rule deletes this provision as it is already described under the NPIP standards and does not need to be repeated in the rule.

The current rule establishes fees to be paid for enrollment in the program and is ambiguous as to when the \$40 fee or the \$80 fee applies. The proposed rule clarifies that the \$40 fee applies to a flock consisting of not more than 200 breeders, and the \$80 fee applies to a flock consisting of more than 200 but not more than 1,000 breeders.

The proposed rule specifies that the department *may*, rather than *shall*, inspect enrolled flocks and take other actions as appropriate, based on plan requirements.

*Poultry Imports.* The current rule requires that live poultry, eggs used for hatching, farm-raised game birds, and farm-raised game bird eggs used for hatching that are imported to Wisconsin be accompanied by a federal bureau form VS 9-3 or a valid certificate of veterinary inspection. These documents must certify that the birds/eggs originate from flocks meeting specified requirements or a plan that the department determines to be equivalent to Wisconsin requirements.

The proposed rule requires a person who imports poultry to keep the federal bureau form VS 9-3 or certificate of veterinarian inspection (whichever is applicable) for at least three years, and to make them available to the department for inspection and copying upon request.

The proposed rule replaces the term *originate* with *are directly imported from* to clarify that the document accompanying the birds/eggs must certify the most recent location from which the birds were imported and not the original location from which the birds were purchased. Also, the proposed rule eliminates the equivalent plan as determined by the department as it has never been used.

The current rule prohibits the import of turkey poults from hatcheries that hatch eggs, other than turkey eggs. It also prohibits the import of started poultry, other than turkey poults, from hatcheries that hatch turkey eggs. The proposed rule eliminates this prohibition as it cannot be justified based on disease risk.

#### *Farm-Raised Deer*

*Farm-raised deer herd registration.* The current rule specifies that no person may keep farm-raised deer at any location in this state unless the department has issued a current annual farm-raised deer herd registration certificate authorizing the person to keep farm-raised deer at that location. There is an exception for persons who own less than 50% of a farm-raised deer or group of farm-raised deer, if certain requirements are met. The proposed rule eliminates this exemption, as it is not being used. The proposed rule creates two new exemptions as follows:

- Licensed animal dealers who purchase farm-raised deer from a keeper whose herd is currently registered, and who move those deer directly to slaughter, are not required to obtain a farm-raised deer herd registration, if certain requirements are met. One such requirement mandates the dealer to keep certain records for that deer, including chronic wasting disease test results.
- Temporary farm-raised deer exhibits, if certain requirements are met.

When applying for a farm-raised deer herd registration certificate, an applicant must include a breakdown by species, age, and sex of the farm-raised deer in the herd. The proposed rule requires only the breakdown of species of deer to be included on the application while eliminating the breakdown by age and sex.

The proposed rule allows a farm-raised deer keeper to maintain ownership of a deer that is moved to another premises as long as the owner at the new premises has a valid farm-raised deer herd registration certificate, and movement requirements are met. In addition, certain records must be kept by both parties, as follows:

- A person who receives a farm-raised deer but does not own the deer must keep records relating to deer that enter the herd, leave the herd, escape, are killed, etc. He or she must test the deer for CWD upon death and keep those CWD test results for at least 5 years.
- A person who provides a farm-raised deer to another premises (including a hunting ranch), but who retains ownership of the deer, must keep records relating to that deer leaving the herd and when that deer dies, is killed, or slaughtered. He or she must also keep the CWD test results for at least 5 years.

*Prohibitions.* The current rule prohibits persons keeping farm-raised deer from commingling deer with bovine animals on the same premises, building, enclosure, or vehicle unless all the animals go to slaughter. The proposed rule will allow these animals to be on the same premises without having to send them all to slaughter if one of the following requirements is met:

- The herds of the two species are medically separated.
- The herds of both species are certified by the department as accredited Tuberculosis-free.
- The herds of both species meet the testing requirements to become a TB qualified herd, and the animal to be moved has been classified negative to an official TB test that was conducted within 90 days prior to the date of movement for farm-raised deer and 60 days prior to the date of movement for bovine animals. If the herd test was administered and the herd qualified (within 90 days prior to the date of movement for farm-raised deer and 60 days prior to the date of movement for bovine animals), the animal to be moved does not require an additional individual test.

The proposed rule creates the following prohibitions:

- Prohibits a keeper from intentionally releasing farm-raised deer to the wild or taking no action to prevent escapes.

- Prohibits a keeper from feeding or baiting in a manner that may attract wild deer to the fence of the farm-raised deer herd.

*Chronic Wasting Disease Testing (CWD).* The current rule specifies requirements for farm-raised deer to be tested for CWD. The proposed rule also requires a farm-raised deer keeper whose herd is enrolled in the CWD herd status program, and who moves a deer to another location owned by the keeper, to test that deer for CWD upon death.

The current rule requires a person who is qualified to collect a CWD test sample to label the test sample with the animal's official individual identification, or if the official individual identification is not available, with the back tag, official slaughter identification, or carcass tag. The proposed rule changes the term "carcass tag" to "dead tag" for consistency throughout the rule. It also requires that all identification tags and numbers from the animal accompany the test sample.

The current rule requires a person who is qualified to collect a CWD test sample to submit a CWD sample to a veterinarian within 2 business days. The proposed rule allows that submission to occur within 9 calendar days after the farm-raised deer dies or is killed or slaughtered. The proposed rule clarifies that a veterinarian who accepts the CWD sample must submit the sample to an approved laboratory within 10 days *of receipt*.

The current rule allows the department to disqualify a person from collecting CWD test samples, including a veterinarian. The proposed rule clarifies that if a veterinarian is disqualified from taking CWD test samples, he or she will not be allowed to accept or submit CWD test samples.

*Farm-Raised Deer Identification.* The current rule specifies farm-raised deer identification requirements under the "Farm-raised deer; chronic wasting disease herd status program" section of the rule. The proposed rule moves the identification requirements to the "Farm-raised deer; identification" section of the rule as it is a more logical area to look for identification requirements. The cross-references relating to farm-raised deer identification requirements throughout the rule have been changed to reference its new location.

The current rule requires farm-raised deer in herds enrolled in the chronic wasting disease herd status program to have two individual identifications. One must be an official individual identification, and the second identification must be either an official individual identification or individual identification unique to the herd.

Under federal law, a person may not apply an official individual identification to any animal that already has an official individual identification, except that: An "840" tag may be applied to an animal that has a national uniform ear tagging system ear tag; a brucellosis vaccination tag may be applied when vaccinating an animal for brucellosis (although this would not apply to farm-raised deer); or an official individual identification may be applied as approved by the department.

The proposed rule has been modified to meet federal requirements. Thus, whenever a farm-raised deer is required to have two individual identifications, one must be an official individual identification, and the second must be an individual identification unique to the herd or an official individual identification that meets one of the following:

- It was applied prior to the effective date of this rule.
- An “840” tag was applied to an animal that has a national uniform ear tagging system ear tag.
- An official individual identification as approved by the department.

A person who applies additional official individual identification specified above must keep a record of the existing and newly applied official identification numbers.

*CWD Herd Status Program Suspension.* The current rule allows the department to suspend enrollment in the CWD herd status program under certain circumstances. The proposed rule adds to the list of reasons enrollment may be suspended: A farm-raised deer keeper who fails to renew (maintain) his or her farm-raised deer herd registration.

The current rule has a note that no live farm-raised deer may be moved from a herd while a suspension is in effect. The proposed rule includes that language as part of the official rule, rather than a note.

*Certificates of Veterinary Inspection for Farm-Raised Deer.* The current rule specifies that farm-raised deer may not be imported to or moved within Wisconsin (with some exceptions) without a certificate of veterinary inspection (CVI). The CVI must include the official individual identification of the farm-raised deer. The proposed rule requires the CVI to list two individual identifications of each farm-raised deer.

### *Fish Farms*

The current rule refers to the federal bureau when identifying fish or fish eggs of a species susceptible to viral hemorrhagic septicemia. The department is now responsible for identifying these species of fish or fish eggs. The proposed rule reflects this change and includes a note as to how to find the list of susceptible species.

To apply for a fish farm registration, the current rule requires a fish farm operator to submit an application to the department on a form provided by the department. The proposed rule, in accordance with Wis. Stat. § 29.733 (1h), requires a person applying for an initial fish farm registration certificate to first contact the Wisconsin Department of Natural Resources to determine whether a natural waterbody permit must be obtained.

The current rule requires that, in most cases, fish imported to Wisconsin be accompanied by a health certificate and requires fish imported for certain purposes be accompanied by an import permit. The current rule implies that health certificates only have to be kept as records if they

accompany an import permit. The proposed rule clarifies that all health certificates and import permits must be kept as records.

The current rule requires a person importing fish to a registered fish farm (unless the fish are imported from another fish farm) to have an import permit issued by the department. The proposed rule requires an import permit for this situation only when fish or fish eggs harvested from the wild are imported to a registered fish farm.

The current rule requires that a valid health certificate must accompany fish that are found to be susceptible to viral hemorrhagic septicemia (VHS) and that are moved from a type 3 fish farm to any other location in this state. The proposed rule allows movement of VHS susceptible fish between type 3 fish farms without a health certificate.

### *Dog and Cat Imports*

The current rule specifies that a CVI is not necessary when a dog is imported for treatment or returning home from treatment if certain requirements are met. The proposed rule specifies that cats do not need a CVI for these purposes either.

### *Fairs and Exhibitions*

The current rule specifies requirements relating to organizers of fairs and exhibitions. It also specifies requirements for a licensed veterinarian that more properly should be the responsibility of the organizer.

The proposed rule makes it clear that the organizer of a fair or exhibition (rather than a veterinarian) must ensure that all exhibitors comply with rule requirements, including:

- Movement and exhibition of animals, including documentation to show compliance with import requirements, disease testing and other health requirements of Wis. Admin. Code ch. ATCP 10.
- Exhibitor information and the official ID (or if not applicable, the identification) of the animals exhibited.

The current rule requires an exhibitor to provide appropriate and reliable documentation to show that the animals were lawfully imported or moved to the fair or exhibition, if requested by the organizer of the fair or exhibition. The proposed rule requires the exhibitor to provide this information regardless of whether it is requested by the organizer.

The current rule requires an exhibitor to identify the animals exhibited. The proposed rule requires the exhibitor to provide official individual identification, if required, of the animal exhibited.

The current rule provides PRRS and SECD testing exemptions for swine participating at a fair or exhibition if the swine go directly to slaughter from that fair or exhibition. The proposed rule

adds a testing exemption for swine that participate at a fair or exhibition if moved directly to an animal market if all the swine on the market premises the day of the sale are shipped directly to slaughter. The proposed rule will require fair or exhibition organizers of these “terminal” events to keep records relating to the swine movement.

### *Enforcement*

The current rule allows the department to issue an order quarantining animals for certain purposes. The proposed rule creates an additional purpose to “protect the health of animals located in this state and of humans residing in this state, relating to the importation, movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the department determines are necessary.”

The current rule requires proof of service by staff whenever a quarantine is issued to a person having custody or control of the quarantined animals. Proof of service must be an affidavit or certified mail return receipt. The proposed rule requires a certificate of personal service or certified mail return receipt (instead of an affidavit) as proof of service.

The proposed rule allows the department to issue an emergency quarantine order that will affect a particular geographical location, county, counties, or the entire state in the event of a national, state, or regional animal disease outbreak. As with current quarantines, persons adversely affected by this quarantine may request a hearing to review the quarantine order.

The current rule allows the department to issue a temporary animal hold order if there is reason to believe the animal has been illegally moved or exposed to a disease. The proposed rule deletes the section relating to animal hold orders as they are rarely used, and quarantines may be issued for the same purpose.

The current rule specifies prohibited conduct. The proposed rule adds that no person may:

- Misrepresent to any person the age of any animal.
- Falsify, remove, alter, or tamper with any official identification or official back tag, regardless of how current rule may be interpreted to allow such action.
- Fail or refuse to permit reasonable access by the department to a premises to review certain records, documents, and any other records required under this chapter.
- Prevent the department from taking records off site for copying if deemed necessary for efficiency.
- Apply official individual identification to any animal that already has an official individual identification except under certain specified circumstances.

The current rule also prohibits the commingling of different livestock species other than different species of fish, poultry, camelids, or ratites during transit. The proposed rule also allows the commingling of sheep and goats or different species of South American camelids (rather than camelids).

The current rule prohibits the commingling of bovine animals and farm-raised deer unless all the animals go to slaughter at some point. The proposed rule will allow bovine animals and farm-raised deer to be on the same premises and not be sent to slaughter, if certain conditions are met. See “Prohibitions” under “Farm-Raised Deer Herd Registration” for more information.

#### *Animal Truckers, Markets and Dealers*

The current rule lists requirements relating to animal truckers, markets, and dealers under both ch. ATCP 10 and ch. ATCP 12. The proposed rule deletes some of the duplicated requirements from ch. ATCP 10 and includes a note to clarify that animal trucker, market, and dealer requirements are under ch. ATCP 12.

The current rule requires animal market operators to remove animals from the animal market within 4 days after they enter the market. However, some markets have personal livestock on the market premises which do not have to be moved. The proposed rule requires that animal markets clearly separate market animals from any other livestock on the premises and clarifies that market animals must be removed from the market within 4 days after entry.

The current rule requires animal markets and dealers to comply with certain requirements. The proposed rule adds compliance with federal traceability requirements when moving cattle interstate or releasing cattle for interstate movement. This requirement is not new but will allow the department to be more responsive when action is needed.

The current rule specifies requirements for moving and testing swine for Porcine Reproductive and Respiratory Syndrome (PRRS) and the Porcine Epidemic Diarrhea virus (PEDv) under ch. ATCP 10. The proposed rule modifies ch. ATCP 12 to require animal market operators and dealers to notify potential buyers of any swine that test positive for PRRS or the PEDv before selling those swine. Market operators and dealers must also keep records of PRRS and PEDv test results and herd plan numbers, when those swine are required to have them.

The current rule exempts a licensed meat establishment that buys livestock solely for slaughter at the meat establishment from getting an animal dealer license. The proposed rule changes the term, “licensed meat establishment” to “slaughtering establishment” as that is the correct terminology to be used.

The current rule prohibits animal market operators from delivering livestock or wild animals to an unlicensed animal trucker if the operator knows or has reason to know the animal trucker is unlicensed. The proposed rule also prohibits animal market operators from delivering to an unlicensed animal dealer.

The current rule prohibits animal truckers from causing or permitting different species of animals to be commingled on the same animal transport vehicle or enclosure. The proposed rule allows the commingling of different species of animals if the animals are of comparable size and do not pose a known disease threat to the other species.



The current rule lists general prohibitions for animal truckers, markets and dealers. The proposed rule prohibits a person from refusing to permit access to a premises or vehicle to an authorized agent of the department.

The current rule requires an animal trucker who receives any bovine or swine for sale or shipment to slaughter to immediately identify the animals with an official back tag and record the back tag number if the animal is not already identified. The proposed rule exempts an animal trucker from this requirement if the trucker: 1) Picks up bovine animals/swine from a farm premises and takes the bovine animal/swine directly to a slaughtering establishment, and 2) The bovine animals/swine are not commingled with animals picked up from other farms.

The current rule requires an animal dealer or market operator who receives swine to immediately record the official individual identification of that swine or to apply such identification if the swine does not already have it. The proposed rule exempts market swine from having to be identified with official individual identification unless shipment to slaughter does not occur. Market swine is defined as either a barrow which is a castrated boar, or a gilt which is a female that has not reproduced, that are sold to go directly to a slaughtering establishment.

The current rule requires an animal dealer or market operator who receives farm-raised deer to identify the deer with an official individual identification if it does not already have it. The proposed rule deletes this requirement as current rule requires any farm-raised deer that is moved to have two individual identifications (one of which must be official identification) before it may be moved. Thus, the animal dealer or market operator should never have to apply identification.

The current rule requires animal market operators, dealers, or truckers to keep a copy of any certificate of veterinary inspection that accompanied the animal. The proposed rule clarifies that the CVI must be kept if it was required to accompany the animal.

### ***Public Hearings and Response to Public Comments***

Written comments were received during the economic impact analysis comment period from June 29, 2018, through August 29, 2018. The department held a public hearing in Eau Claire on December 10, 2018, in Appleton on December 12, 2018, and in Madison on December 18, 2018. Following these public hearings, the hearing record remained open until January 10, 2019 for additional written comments.

The department received four comments or registrations during the public hearings and 58 unique written comments. Comments broke down in the following categories:

One comment supported requiring brucellosis testing for breeding dogs entering Wisconsin from other states.

One comment requested eliminating the current requirement to submit brucellosis vaccination records to the department. ATCP 10.10, Wis. Admin. Code, requires a veterinarian to file a vaccination report with the department within 30 days after the veterinarian performs the

vaccination in order for the animal to qualify as an official brucellosis vaccine. This reporting is required by Wis. Stat. § 95.46 (2) and therefore cannot be changed as a part of this rule draft.

*Comments Related to AZA and ZAA*

Three comments requested that the department include Zoological Association of America (ZAA) accredited facilities in the exemptions that currently apply to Association of Zoos and Aquariums (AZA) accredited facilities. There is currently one ZAA accredited facility and five AZA accredited facilities in Wisconsin. The tables below list the current exemptions for AZA accredited facilities under Wis. Admin. Code ch. ATCP 10, general information regarding the accreditation process of each organization, and the accreditation standards of each organization with regards to animal disease management.

*Table 1. Current DATCP Rule Exemptions for AZA Accredited Facilities*

<b>Exemption</b>	<b>Additional Information</b>
Wis. Admin. Code ss. ATCP 10.01 (37) and 10.87: excludes AZA accredited facilities from the definition of “exhibition” and the associated requirements.	“Exhibition” means an organized fair, swap meet, rodeo, trail ride, show, or other organized event at which animals owned by different persons are brought together from different premises and exhibited on the same premises. “Exhibition” does not include any of the following: (a) An animal market. (b) An exhibition operated by an institution accredited by the association of zoos and aquariums. (c) A wild animal exhibition operated pursuant to a permit from the Wisconsin department of natural resources. A premises with animals owned by a single person would not be an exhibition.
Wis. Admin. Code s. ATCP 10.01 (42) excludes AZA accredited facilities from the definition of “farm-raised deer” and the associated requirements.	Farm-raised deer, and other cervids, are susceptible to tuberculosis and brucellosis, both of which are zoonotic diseases that can pass from animals to humans. Farm-raised deer, and other cervids, are also susceptible to chronic wasting disease (CWD). Wis. Stat. s. 95.55 and Wis. Admin. Code Ch. 10 Subchapter VII establish requirements relating to farm-raised deer. These requirements include, but are not limited to, registration, fencing requirements, CWD testing requirements, and requirements for movement.
Wis. Admin. Code s. ATCP 10.56 (1) (b) exempts AZA accredited facilities from certificate of veterinary inspection requirements for in-state movement of farm-raised deer.	Farm-raised deer, and other cervids, are susceptible to tuberculosis and brucellosis, both of which are zoonotic diseases that can pass from animals to humans. Farm-raised deer, and other cervids, are also susceptible to chronic wasting disease (CWD).
Wis. Admin. Code s. ATCP 10.82 (3) (b) exempts AZA accredited facilities from tuberculosis import testing requirements for exotic ruminants.	Tuberculosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.
Wis. Admin. Code s. ATCP 10.82 (4) (b) exempts AZA accredited facilities from brucellosis import testing requirements for exotic ruminants.	Brucellosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.
Wis. Admin. Code s. ATCP 10.84 (4) (b) exempts AZA accredited facilities from wild animal import	In 2003, a shipment of tree squirrels, dormice, Gambian giant pouched rat, brush-tailed porcupine,

<p>prohibitions if the department issues a permit. (prairie dogs and the following rodents from Africa: tree squirrels, rope squirrels, dormice, Gambian giant pouched rat, brush-tailed porcupine, and striped mice)</p>	<p>and striped mice were imported to the US from Africa. Some of the animals were infected with monkeypox and passed the virus to prairie dogs while at an animal vendor. The prairie dogs were sold as pets prior to developing signs of infection. Monkeypox is a zoonotic disease, which means it can pass from animals to humans. There were 37 confirmed cases of monkeypox in humans after contact with the infected prairie dogs. The CDC advised potentially exposed individuals to get the smallpox vaccine.                  (https://www.cdc.gov/poxvirus/monkeypox/outbreak.html)</p>
<p>Wis. Admin. Code s. ATCP 10.86 (3) exempts AZA accredited facilities from tuberculosis import testing requirements for elephants.</p>	<p>Tuberculosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.</p>

*Table 2. General Information Regarding the Accreditation Process*

<b>Accreditation Process</b>	<b>AZA</b> Quotations below are from: <a href="https://www.aza.org/becoming-accredited">https://www.aza.org/becoming-accredited</a>	<b>ZAA</b> Quotations below are from: <a href="http://zaa.org/accreditation">http://zaa.org/accreditation</a>
Initiating the accreditation process	“Every candidate for accreditation fills out a detailed questionnaire which includes copies of their policies, procedures, records, lists, and reports.”	“Submit the completed ZAA Accreditation Application with required attachments and photographs.”
Accrediting body	“AZA carefully selects the expert Accreditation Commission members who evaluate each zoo and aquarium. These experts are leaders in their fields and have many years of experience and education in zoo and aquarium operations, animal management, and veterinary medicine. There are twelve experts on the Accreditation Commission.”	ZAA has an accrediting committee to evaluate applications. The ZAA website does not indicate the number or types of members on the accrediting committee.
Accreditation inspection	“After the Accreditation Commission studies the application, a team of inspectors visit the zoo or aquarium in person. Each team includes at least one veterinarian along with animal and operations experts. The inspectors spend several long days at the zoo or aquarium visiting every area, interviewing staff, checking records, and examining the physical facilities and the animal collection. The inspectors then write a detailed report about everything they saw and evaluated and submit it to the Accreditation Commission.”	“Inspections are performed by the accreditation inspection team of two or more individuals. Re-accreditation of members in good standing requires one or more inspectors. The site inspections will be conducted at the expense of the applicant. The inspectors are chosen by the accreditation committee chair. The applicant has the right of refusal for any inspector.”
Accreditation approval	“The Accreditation Commission meets twice a year to consider all candidates for accreditation. They examine the application, the supporting documents submitted by the zoo or aquarium, the inspection team's report, and any information and comments received from outside organizations and individuals.	“The accreditation committee will review the application and site inspection. The applicant may be a). tabled and given a timeframe to correct deficiencies, b). denied, or c). approved as an accredited facility member. Once approved, the applicant will be submitted to the board of directors for

	The zoo or aquarium's senior officials must go to the Accreditation Commission's meeting to answer questions. Finally, the Accreditation Commission decides whether or not to grant accreditation. It doesn't matter if an institution is new or was previously accredited, standards are high and not every candidate receives accreditation."	approval with a pro simple majority vote."
Maintaining accreditation	"AZA-accredited zoos and aquariums are constantly evolving and standards are continuously being raised. Each zoo or aquarium must keep up with these changes to remain AZA-accredited. And to prove it, they must go through the entire accreditation process every five years."	"The accreditation status is valid for five years. The facility must re-apply for accreditation and have a site inspection before their accreditation expires."

*Table 3. Accreditation Standards Regarding Animal Disease Management*

<b>Accreditation Standard</b>	<b>AZA</b> Quotations below are from: <a href="https://www.speakcdn.com/assets/2332/aza-accreditation-standards.pdf">https://www.speakcdn.com/assets/2332/aza-accreditation-standards.pdf</a>	<b>ZAA</b> Quotations below are from: <a href="http://www.zaa.org/images/pages/misc/ZAA_Accreditation_Standards.pdf">http://www.zaa.org/images/pages/misc/ZAA_Accreditation_Standards.pdf</a>
Veterinary coverage and inspections	"A full-time staff veterinarian is recommended. In cases where such is not necessary because of the number and/or nature of the animals residing there, a consulting/part-time veterinarian must be under written contract to make at least twice monthly inspections of the animals and to respond as soon as possible to any emergencies." (Section 2.1.1.) "So that indications of disease, injury, or stress may be dealt with promptly, veterinary coverage must be available to the animals 24 hours a day, 7 days a week." (Section 2.1.2)	The documented ZAA accreditation standards do not contain requirements for veterinary coverage or veterinary inspections.
Disease prevention	"The veterinary care program must emphasize disease prevention... Preventative medicine programs (vaccinations, TB testing, parasite exams, etc.) must be in force for all of the institution's animals and must be under the direction of a qualified veterinarian." (Section 2.0.2.)	The documented ZAA accreditation standards do not contain requirements for disease testing, zoonotic disease training, or tuberculosis prevention.
Disease outbreak response	"Institutions should be aware of, and prepared for periodic disease outbreaks in wild or other domestic or exotic animal populations that might affect the institution's animals (ex – Avian Influenza, Eastern Equine Encephalitis Virus, etc.). Plans should be developed that outline steps to be taken to protect the institution's animals in these situations." (Section 2.0.3.)	The documented ZAA accreditation standards do not contain requirements for disease outbreak response or preparation.
Quarantines	"The institution must have holding facilities or procedures for the quarantine of newly	In regards to fish, "the institution must have holding facilities or procedures for the

	<p>arrived animals and isolation facilities or procedures for the treatment of sick/injured animals.” (Section 2.7.1.) “Written, formal procedures for quarantine must be available and familiar to all paid and unpaid staff working with quarantined animals.” (Section 2.7.2)</p>	<p>quarantine of newly arrived animals and isolation facilities or procedures for the treatment of sick/injured animals. Written, formal procedures for quarantine must be available and familiar to all staff working with quarantined animals.” (Section IX. 7. a. i.) The documented ZAA accreditation standards do not contain requirements for the quarantine of other (non-fish) animals.</p>
<p>Animals used offsite and in programs</p>	<p>“For animals used in offsite programs and for educational purposes, the institution must have adequate written protocols in place to protect the rest of the animals at the institution from exposure to infectious agents... To protect the health of the animals at the institution, written protocols required above, and their implementation, must include a veterinary risk assessment and veterinary approval.” (Section 1.5.5.) “The institution should design facilities, develop animal care protocols and present animals for public contact in ways that minimize this risk (e.g., hand-washing or hand sanitizing stations and signage, where applicable, etc.)” (Section 11.1.2.)</p>	<p>“All wildlife that will be used for contact with the public shall have been evaluated by the exhibitor to insure compatibility with the uses intended. All wildlife shall be exhibited in a manner that prevents injuries to the public and the wildlife. The exhibitor shall take reasonable sanitary precautions to minimize the possibility of disease or parasite transmission which could adversely affect the health or welfare of citizens or wildlife.” (Section III. 3. a.) The documented ZAA accreditation standards do not contain requirements for the veterinary oversight of animals at the facility or of animals moving from the facility for exhibition.</p>
<p>Staff and public zoonotic disease prevention</p>	<p>“Training and procedures must be in place regarding zoonotic diseases... Diseases that can be transmitted between animals and humans (Zoonotic disease, zoonoses) present a potential risk for paid and unpaid staff and the visiting public. The institution should design facilities, develop animal care protocols and present animals for public contact in ways that minimize this risk (e.g., hand-washing or hand sanitizing stations and signage, where applicable, etc.). Institutions must train appropriate paid and unpaid staff in methods to prevent zoonotic disease.” (Section 11.1.2.). “The institution must have an occupational health and safety program... An effective occupational health and safety program is based on hazard identification and risk assessment. The nature of the program will depend upon animal species, potential hazards, facility design, and workplace activities. The extent and level of participation (e.g. vaccinations, TB testing, parasite exams, immunizations, personal protective equipment, etc.) will vary depending upon potential hazard exposure and risk management.” (Section 11.1.2.1.) “A tuberculin (TB) testing/surveillance program must be established for appropriate paid and unpaid staff in order to assure the health of</p>	<p>In regards to fish quarantines, “Precautions must be taken to minimize the risk of zoonotic disease to personnel.” (Section IX. 7. b. iii.) The documented ZAA accreditation standards do not contain requirements for disease testing, zoonotic disease training, or tuberculosis prevention.</p>

	<p>both the paid and unpaid staff and the animals.” (Section 11.1.3.)</p>	
<p>Secondary animal containment</p>	<p>“Perimeter fencing must be separate from all exhibit fencing or other enclosures, and be of good quality and construction. All facilities must be enclosed by a perimeter fence which is at least 8' in height or by a viable barrier. The fence must be constructed so that it protects the animals in the facility by restricting animals outside the facility and unauthorized persons from going through it or under it and having contact with the animals in the facility, and so that it can function as a secondary containment system for the animals in the facility... There are rare instances where the terrain surrounding the facility provides a viable barrier. The Accreditation Commission will determine what constitutes a “viable barrier” and must approve a waiver. However, most facilities must be enclosed by a perimeter fence. Facilities located in rural areas and which are PPEQ-approved must meet special USDA standards for fencing. Institutions which are entirely enclosed within a building may be exempt from this requirement.” (Section 11.8.1.).</p>	<p>“1. Facility requirements for Class I animals... b. The facility shall have a perimeter boundary, including access points, to be designed, constructed, and maintained to discourage unauthorized entry and so far as reasonably practical, as an aid to the confinement of all animals within the perimeter of the institution. The perimeter boundary cannot also act as animal exhibit barrier and must be located at least 3 feet from the primary enclosure. c. The facility shall be bounded by a fence of not less than eight (8) feet in height, constructed of not less than 11 1/2 gauge chain link, or equivalent, to prevent escape from the property of any wildlife that may escape the primary caging. 2. Facility requirements for Class II animals... b. The facility shall have a perimeter boundary, including access points, to be designed, constructed, and maintained to discourage unauthorized entry and so far as reasonably practical, as an aid to the confinement of all animals within the perimeter of the institution. The perimeter boundary cannot also act as animal exhibit barrier and must be located at least 3 feet from the primary enclosure. c. The facility shall be bounded by a fence of not less than eight (8) feet in height, constructed of not less than 11 1/2 gauge chain link, or equivalent, or, as an alternative, a fence of not less than six (6) feet in height, with a 2-foot, 45 degree, inward angle overhang. The inward angle fencing and vertical fencing shall be constructed of 11 1/2 gauge chain link or equivalent. This fencing is to prevent escape from the property of any wildlife that may escape from primary caging. 3. Facilities maintaining Class III wildlife only: a. Facility shall meet same requirements as Class II facilities except that the perimeter fence may be 6 foot high with no overhang.” (Section II.). The ZAA accreditation standards categorize farm-raised deer as class III animals (Section I.).</p>

The AZA accreditation standards include specific requirements for veterinary oversight and disease prevention and response. The department determined that the AZA accreditation standards provide sufficient requirements to prevent disease transmission and that maintaining the current exemptions for AZA accredited facilities would not pose a risk to public health or livestock commerce.

At this time, the documented ZAA accreditation standards do not contain requirements for the veterinary oversight of animals at the facility or of animals moving from the facility for exhibition. The ZAA accreditation standards do no reference disease testing, zoonotic disease training, or tuberculosis prevention. Facilities with farm-raised deer are required to have secondary containment fencing of only six feet in height. The department determined that current documented ZAA accreditation standards do not include sufficient requirements for veterinary oversight and disease prevention to warrant exempting ZAA accredited facilities from requirements under Wis. Admin. Code ch. ATCP 10.

Due to these findings, the department determined not to change current rule language regarding exemptions for AZA accredited facilities. This determination is consistent with Wis. Stat. § 169.01 (28), which defines a “public zoo or aquarium” as a zoo or aquarium that is operated by the state or by a city, village, or county, or that is an accredited member of the American Zoo and Aquarium Association.

#### *Comments Related to Farm-Raised Deer Enhanced Fencing and Movement Restriction*

Three comments and one registrant supported the farm-raised deer enhanced fencing requirements and county movement restrictions. All three comments cited the threat of CWD expansion as the reason for support. Two comments discussed the impact to Tribes of Wisconsin and the Great Lakes, and to traditional lifeways. One comment discussed the impact to deer hunting culture in smaller and northern communities.

Seventeen comments opposed movement restrictions affecting the exhibition of reindeer in unaffected counties. Reindeer owners commented that they keep and breed reindeer specifically for exhibition; therefore, being unable to move from an affected county to an unaffected county would be detrimental to their businesses. Other comments were from events coordinators and/or municipalities that host events where reindeer are present, primarily around Christmas time. The commenters noted that the restriction on movement would limit their ability to have reindeer on display, which in turn might reduce attendance at holiday events, thereby reducing revenues to local businesses.

Thirty-six comments opposed the enhanced fencing requirements. One of these expressed support of alternate types of enhanced fencing or barriers, but not the type of enhanced fencing proposed in the hearing draft. Eighteen comments opposed the county movement restrictions. Comments opposed to the enhanced fencing requirement and the movement restriction cited the following concepts:

- Economic Impact:
  - Enhanced fencing requirements would impose substantial, if not devastating, costs on farm-raised deer keepers.
  - The cost is not supported by any demonstrated benefit.
  - The cost of enhanced fencing, even electric fencing, would be devastating to farm-raised deer keepers.

- The electric fence maybe the most affordable, but it will do nothing to stop fence-line contact.
- Many farm-raised deer keepers would not be able to perform the labor themselves due to a variety of factors, which would add to the cost.
- The state should assist in paying for the second fence as it will serve to protect captive herd from the wild, and because the rule is not based on clear scientific evidence.
- CWD Research:
  - There is no scientific evidence to support that the rule will have any impact on the spread of CWD among wild or captive deer.
  - Farmers have never observed any fence line contact between farm-raised deer and captive deer.
  - Enhanced fencing and restrictions on movement do not address the larger issue posed by baiting and feeding of deer in the wild or of wild deer carcasses on the landscape.
- Feasibility of Implementation:
  - The 6-inch electric fence requirement will not be feasible because of weeds and snow, and it serves no purpose, but should rather start at least 24 inches from the ground.
  - The compliance date of 90 days after the effective date of the rule is not long enough. Two years may not be enough for some locations with extensive acreages and dense wooded or marsh terrain.
- Movement:
  - Entities that have been enrolled in the CWD herd status program and testing at 100% should be allowed to move deer in commerce without restriction.
  - Farm-raised deer from any area should be allowed to move directly to slaughter, regardless of where the slaughter facility is located.

In response to comments, the department determined to re-evaluate fencing requirements and movement restrictions, and has removed enhanced fencing requirements and county movement restrictions from this rule package.

#### *Comments Related to Other Farm-Raised Deer Rule Draft Proposals*

Six comments opposed changing the expiration date for farm-raised deer keeper registrations from March to August. Of these, four stated that they opposed the change because it would include newborn calves in the herd headcount and two stated that they opposed the change because August is a busier time of year for keepers. The department determined to remove the rule proposal from the final draft.

Four comments discussed the prohibition regarding feeding or baiting in a manner that may attract wild deer to the fence of the farm-raised deer keeper. One comment supported the prohibition. Three comments opposed the prohibition and expressed concerns about if neighbors were to place bait near the keeper's fence. The department determined to keep the proposed rule



in the final rule draft. The prohibition is specific to farm-raised deer keepers and does not include actions taken by other persons outside of farm-raised deer premises.

Two comments discussed the prohibition regarding intentionally releasing farm-raised deer to the wild or taking no action to prevent escapes. One comment supported the prohibition and recommended rewording to require keepers to “take all necessary action” to prevent escapes. One comment opposed the prohibition and expressed concerns about weather events. The department determined to keep the proposed rule in the final rule draft.

Four comments opposed including deer slaughtered on the farm, provided that the department conducts an ante mortem inspection and post-mortem inspection, within the 25% CWD testing mandate. Reasons cited included concerns about scheduling, whether there would be an inspection cost, whether deer for the keeper’s personal food would be included, and whether deer killed after sustaining an injury would be included. The department determined to remove the rule proposal from the final rule draft.

One comment supported requiring all identification tags and numbers to accompany CWD test samples and one comment opposed this requirement. The department determined to keep this requirement in the final rule draft, as it is necessary to ensure accuracy of CWD test sampling.

One comment, regarding the proposed rule to allow farm-raised deer to commingle with bovine animals without having to send them all to slaughter if requirements are met, expressed concerns that the practice would be overbearing to farmers. The department determined to keep the proposed rule in the final rule draft, as it allows more options for keepers than the current rule and does not increase the risk of disease spread.

One comment opposed requiring a keeper whose herd is enrolled in the CWD herd status program, and who moves a deer to another location owned by the keeper, to test that deer for CWD upon death in accordance with the testing required in ATCP 10.52 (1m) (a), Wis. Admin. Code. The department determined to keep the rule proposal in the final rule draft. Herds enrolled in the CWD herd status program may move deer in state and across state lines. Movement of deer is a high risk activity for disease spread, so it is critical to ensure appropriate testing for enrolled herds.

One comment opposed moving from a note to official rule that no live farm-raised deer may be moved from a herd while a suspension is in effect, and recommended allowing movement if animals leaving are tested at 100%. The department determined to keep the proposal in the final rule draft, as movement of animals while a suspension is in effect creates a higher risk for disease spread.

One comment opposed making it a prohibited activity to “prevent the department from taking records off site for copying if deemed necessary for efficiency,” and recommended rewording to state that “the department may require copies of all necessary records.” The department determined to keep the proposed rule language in the final draft, as it would not be deemed necessary for efficiency to remove records off site for copying if copies are supplied.

One comment expressed concerns about the submission of CWD samples to veterinarians and whether the keeper is responsible for the timing of a veterinarian submitting samples. The current and proposed rules delineate responsibilities for submitting samples by the collector and the veterinarian.

#### *Comments Recommending Further Farm-Raised Deer Rulemaking*

Two comments recommended further requirements for farm-raised deer keepers, including:

- Double fencing for all facilities
- Fence inspections annually and after severe weather events
- Specifications to keep fence-lines clear
- Alarms to indicate whether the fence has been breached or gates left open
- Maintaining fencing if CWD is detected until there is an appropriate remediation of the prion-contaminated environment
- All facilities to be enrolled in the CWD herd status program
- Testing 100% of dead captive cervids aged 5 months and over
- Herds with CWD positive tests be humanely depopulated in 30 days
- 100% of cervids sent to slaughter be tested for CWD
- Keeping cervid carcasses separate until CWD status is confirmed
- Carcasses that test positive for CWD be considered unfit for human consumption or animal feed
- Facilities maintain insurance to cover costs of depopulation and carcass disposal in the event CWD is detected
- Moratorium on the transport and import of live cervids and cervid biological materials until an effective live test is developed and approved
- Carcasses from CWD positive facilities be disposed of either within a clay-lined landfill or bio digestion
- Surfaces that come into contact with CWD-contaminated carcasses be cleaned in a manner shown to disinfect CWD prions and/or is permanently segregated

One comment recommended rectal biopsies before animals are sold to another farm or out of state and recommended incorporating genetic testing into the rule.

One comment recommended prohibiting import of cervids from other states.

One comment recommended developing an exit plan for farm-raised deer keepers willing to get out of business.

The department determined that further restrictions, requirements, or rulemaking related to farm-raised deer keepers would not be added to this final rule draft. Recommendations submitted in comments may be further evaluated for consideration in future rule processes.

*Additional Comments Regarding Brucellosis Canis and Heartworm*

After the DATCP Board approval of the original final rule draft on July 10, 2019, the department received interest from members of the public regarding brucellosis canis and heartworm testing and treatment requirements for dogs imported into Wisconsin. As stated earlier, the department received one comment in support of brucellosis canis testing requirements during the public hearing comment period.

In response to public interest, the department accepted additional comments from July 24, 2019, through August 15, 2019. Fifty-four (54) additional comments supported the requirements. One thousand seven hundred and ninety-nine (1,799) comments opposed the requirements. Ten comments did not state a position. Four comments stated a position that supported some of the requirements and opposed some of the requirements:

- One comment supported requiring testing prior to import and opposed requiring treatment prior to import.
- One comment supported the requirements regarding heartworm and opposed the requirements regarding brucellosis canis.
- One comment supported heartworm testing requirements for dogs six months and older, supported brucellosis canis testing requirements for international imports, and opposed brucellosis canis testing requirements for interstate imports.
- One comment supported requirements for most international imports and opposed requirements for interstate imports and Canadian imports.

Comments supporting the requirements cited the following concepts:

- Disease Risk:
  - Protecting the health of animals in Wisconsin, including pets, breeding dogs, and livestock
  - Protecting human health, in the case of brucellosis
  - Heartworm and brucellosis are serious diseases
  - Disease transmission is a serious risk
  - Brucellosis is more common in dogs brought up from the South because there are more sexually intact stray and loose dogs in the South
- Cost and Feasibility:
  - Testing is not a significant cost
  - The timing for testing is not unreasonable
- Rescues and Adoption:
  - Testing would ensure that dogs adopted to Wisconsin families are healthy
  - Some commenters had unknowingly adopted a heartworm positive dog and felt it should have been tested prior to adoption
  - Heartworm is difficult to treat and expensive to treat
    - The person adopting the dog may not be able to afford the treatment. If the person does not know that the dog they are adopting has heartworm, and cannot afford the treatment, he/she will likely have to surrender the dog, or worse, might abandon the dog

- Some rescues are posting misinformation about heartworm and brucellosis
- Some rescues are concerned about profits more than the care of animals
- It should not be the mission of rescues to be the sole provider of dogs in the state
- Impulse adoption events by some rescues create a cyclical pattern of abandoned animals
- Further Recommendations:
  - Screening for additional diseases
  - Quarantine of rescue dogs for a set duration to ensure that the dog does not have other diseases
  - Evaluation of dogs prior to adoption, including animal behavior and identification

Comments opposing the requirements cited the following concepts:

- Disease Risk:
  - The diseases are not serious enough to justify the cost to rescue organizations
    - The risk of disease transmission is low
    - Heartworm cannot be transmitted to humans
    - Heartworm is not contagious between dogs
    - Heartworm is treatable
    - Brucellosis is rare
    - Brucellosis is not life threatening
    - Brucellosis is spread primarily through sexual contact and spaying/neutering prevents the spread of brucellosis
    - Brucellosis is unlikely to transmit from a dog to a human
  - The tests have high error rates
    - The brucellosis test has a 60% false positive rate
- Cost and Feasibility:
  - Testing is a significant cost
  - The timing for testing is not feasible
- Rescues and Adoption:
  - These requirements would increase the number of dogs euthanized in other states because:
    - The rescue or shelter would not be able to afford the test
    - The rescue or shelter would not be able to afford the treatment in the case of positive test results
    - Dogs with a positive or a false positive test result may be euthanized
    - Shelters are overcrowded
    - Shelter overcrowding increases during natural disasters
  - Some commenters had adopted a heartworm positive dog and felt that if these requirements had been in place the dog would have been euthanized in its state of origin
  - Humane societies are experts in the field
  - Stated that they trust the judgements of humane societies
  - Humane societies test for heartworm and brucellosis before they adopt animals out

- The tests should not prevent animals from entering the state to be tested in Wisconsin and treated in Wisconsin
- These requirements would cause rescue organizations to transport dogs to other states, rather than to Wisconsin, which would decrease the number of dogs available for adoption in Wisconsin
- The rule would benefit breeders by reducing the number of rescue dogs in Wisconsin
- These requirements would increase the use of substandard organizations and illegal imports

In response to comments, and due to the timeline for the expiration of the statement of scope on February 4, 2020, the department determined to remove changes regarding brucellosis canis and heartworm testing and treatment and to submit a revised final rule draft to the DATCP Board for approval.

### ***Response to Clearinghouse Comments***

DATCP modified the final draft rule to address all of the Rules Clearinghouse comments, except for comments 2. b., c., and d. and 5. a. and c., which are no longer applicable as the proposed changes have been removed from the final draft in response to public comments.

### ***Small Business Regulatory Review Board Report***

The Small Business Regulatory Review Board did not issue a report on this rule.

### ***Fiscal and Economic Impact and Effect on Small Business***

The majority of these rule modifications serve to re-organize the contents, to reflect federal requirements, or to make purely technical changes that have no fiscal effect. The rule modifications that may have an economic impact on small business and the entities that may be affected are as follows:

#### ***Animal Health Licensees (Medical Separation)***

Upon the effective date of this rule, any person licensed by the division of animal health who wishes to have medical separation of species on their premises will pay \$400 for each day (or portion of a day) needed to complete the inspection by the department. Most medical separation inspections are completed within one day. However, the time needed to complete an inspection may vary depending on the number of acres and terrain to be inspected. It is unknown how many entities licensed by the division will request medical separation of their premises. Currently there are 31 farm-raised deer herds and 3 fish farms that are medically separated. No inspection is required for renewal of an existing license if the department has previously inspected the premises, and there have been no changes. Thus, there will be no fiscal effect to licensees whose premises are currently medically separated.

### *Owners of Intermediate Livestock Handling Facilities*

Upon the effective date of this rule, an entity that imports any livestock (not just bovine) may request certification to become an intermediate livestock handling facility and pay an annual fee of \$140. Currently, the department has approved one intermediate livestock handling facility in Wisconsin. This facility will be charged \$140 annually for certification as the review process for certification is extensive and there is continuous review of permits and monitoring of the facility throughout the year.

### *Johne's Disease Certified Veterinarians*

Upon the effective date of this rule, veterinarians will no longer be required to recertify, after having been initially certified, for Johne's risk assessment or management plans (RAMPs) and Johne's vaccination. These veterinarians will no longer have to pay an initial fee of \$50 for these certifications. This proposal is anticipated to affect approximately 460 veterinarians.

### *Swine Disease Testing*

Upon the effective date of this rule, swine owners and veterinarians will continue to be required to test swine for Porcine Reproductive and Respiratory Syndrome (PRRS) and Porcine Epidemic Diarrhea virus (PEDv) within 90 days prior to movement. However, swine will no longer have to be tested for other diseases that fall under the Swine Enteric Coronavirus Disease (SECD) which includes the Porcine Delta Coronavirus (PDCoV) and Transmissible Gastroenteritis (TGE).

Testing costs will likely be less because currently a multiplex test must be used to screen for PEDv, PDCoV, and TGE. The proposed rule will require only a test for PEDv, so a multiplex test will no longer be necessary. The cost difference between requiring the use of a multiplex versus a single PEDv test is unknown. Also, costs relating to the development of herd plans for swine that test positive for PDCoV will decline. The costs associated with developing a herd plan will vary greatly depending on the location of the swine herd within the state, the type of farm operation, the number of swine in the herd, the amount of time it takes to write the plan, and veterinarian fees. Thus, these costs are indeterminate.

Since the time that the rule became effective on February 1, 2018, 32 herd plans have been developed by veterinarians. Of that total, 16 plans were developed because of PRRS positive swine, and 6 plans were developed because swine were not tested or were anticipating movement. The 10 remaining herd plans were developed because of SECD positive cases. All were due to weak positives for PDCoV. Thus far, the department has not received notice of a positive PEDv herd.

The pigs that have tested positive for PDCoV were not ill and had not shown clinical signs, according to the private practitioners who were involved. It has been found that birds carry their own Delta Corona viruses that can interfere/cross-react with the swine tests. There is not a cost effective or reasonable test that would enable producers to differentiate between the avian and porcine viruses. While destructive, PDCoV is not as devastating as PEDv.

### *Poultry Producers*

Upon the effective date of this rule, only poultry and eggs exhibited at fairs or poultry shows (rather than those used for breeding, hatching, and exhibitions such as egg swap meets) must be acquired directly from a certified flock (namely a flock enrolled in the national poultry improvement plan, a Wisconsin tested flock, or a Wisconsin associate flock) or be an individual bird tested for certain diseases.

The antigen used to conduct individual bird testing costs \$200. One bottle of antigen can test up to 1,000 birds. The cost is the same whether testing one bird or 1,000 birds. The proposed rule will reduce or eliminate testing costs for hundreds of poultry producers who attend swap meets or breed or hatch birds.

### *Farm-Raised Deer and Bovine Animals on the Same Premises*

Upon the effective date of this rule, there will be options to allow farm-raised deer and bovine animals to be kept on the same premises without having to send them all to slaughter. Any costs associated with these options are voluntary as the owner of the premises may choose not to keep these two species on the same premises and the owner who chooses to keep both species on the premises may send all to slaughter. For those who choose to move these animals to a place other than slaughter, the rule provides the following options:

- The herds of both species are medically separated. Costs related to medical separation are discussed above.
- The herds of both species are certified by the department as accredited Tuberculosis-free. Tuberculosis-free certification costs include:
  - For farm-raised deer, there will be no additional cost as currently deer must meet Tuberculosis testing requirements (in addition to other requirements) prior to movement.
  - For a herd of bovine animals, \$100 for a 2-year Tuberculosis-free certification. All animals in the herd must be tested for Tuberculosis every 2 years. The cost to conduct a whole-herd test will vary depending on a veterinarian's fee, location of the herd, and the number of animals to be tested. Department staff contacted 4 veterinarians in different areas of the state regarding fees charged to conduct Tuberculosis testing. Fees varied greatly in amount and structure. For instance, one clinic charges \$140 per hour regardless of the number of animals to be tested, another charges a \$32 trip fee and \$4 per head of cattle, while other providers varied on the amount charged per trip and the amount charged per head.
- The herds of both species meet the testing requirements to become a Tuberculosis-qualified herd, and the animal to be moved has been classified negative to an official Tuberculosis test that was conducted prior to the date of movement (90 days for farm-raised deer and 60 days for bovine animals).

Herds do not have to be certified as Tuberculosis-qualified, but they must meet testing requirements to become a Tuberculosis-qualified herd. Whole herd testing is effective for 365 days. An individual Tuberculosis test must be conducted for the animal that is leaving the herd unless the herd test was conducted prior to the date of movement (within 90 days for farm-raised deer, and 60 days for bovine). Tuberculosis-qualified costs include:

- For farm-raised deer, there will be no additional cost as currently deer must meet Tuberculosis testing requirements (in addition to other requirements) prior to movement.
- For a herd of bovine animals, all animals in the herd must be tested. The cost to conduct a whole-herd test will vary depending on a veterinarian's fee, location of the herd, and the number of animals to be tested. The cost for a Tuberculosis test to be conducted for an individual bovine animal will also vary depending on when the whole-herd test was conducted, the veterinarian's fee and location of the herd. As indicated above, costs for Tuberculosis testing can vary widely.

### *Fairs and Exhibitions*

Upon the effective date of this rule, fairs and exhibitions will be responsible for checking exhibitor information rather than hired veterinarians. This will most likely reduce costs to fairs and exhibitions as their staff may now check for exhibitor and movement information, rather than paying a veterinarian to do so.

It is not known how much fairs or exhibitions pay for veterinarians nor how much time veterinarians spend on checking this information on behalf of fairs or exhibitions. Thus, these anticipated cost savings to fairs and exhibitions are indeterminate.

### ***Environmental Impact***

This rule has no environmental impact.

### ***Federal and Surrounding State Laws***

The 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.

Federal CWD Herd Certification Program (HCP) requirements include official individual identification of animals, regular inventories, and CWD testing of cervids over 12 months of age that die. Interstate movement of cervids will be dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status.



Federal traceability requirements establish minimum national official identification and documentation for the traceability of livestock moving interstate. These regulations specify approved forms of official identification and documentation for each species.

Surrounding state animal health programs are comparable to those in Wisconsin. Programs for historically important diseases, such as tuberculosis, brucellosis, and CWD in other Midwest states, are similar to Wisconsin, as all are based on well-established federal standards.

***Standards Incorporated by Reference***

This rule has no standards incorporated by reference.