

Wisconsin Department of Agriculture, Trade and Consumer Protection

Initial Regulatory Flexibility Analysis

Rule Subject: Animal Disease and Movement, and Animal Markets, Truckers and Dealers
Adm. Code Reference: Wis. Admin. Code chs. ATCP 10 and 12
Rules Clearinghouse #: Not yet assigned
DATCP Docket #: 17-R-02

Rule Summary

Wis. Admin. Code ch. ATCP 10 specifies requirements relating to animal diseases and movement, and Wis. Admin. Code ch. ATCP 12 specifies requirements for animal truckers, markets, and dealers.

Small Businesses Affected

The majority of the proposed rule modifications serve to re-organize the contents of the rules, to reflect federal requirements, and to make purely technical changes that have no fiscal effect. The rule modifications that may have an economic impact on small businesses 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 impact 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 because 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, as 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. 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. For these reasons, these costs are indeterminate.

Since 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 six 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 proposed 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 from 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 Keepers

Farm-Raised Deer Herd Registration. For the 2020-2021 registration year only, a farm-raised herd registration will be effective from March 16, 2020 through August 31, 2021. License fees for that registration year will increase to \$124.34, \$237.74, or \$475.48, as appropriate, to reflect the

longer period of time for which the registration is effective (17.5 rather than 12 months). The fees will return to \$85, \$162.50, or \$325, respectively, annually thereafter as the license will be issued for 12 months.

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 the location of the herd. As indicated above, costs for Tuberculosis testing can vary widely.

Enhanced Fencing. Currently, the department has registered approximately 370 locations as having farm-raised deer. Some of these 370 locations are already enclosed with enhanced fencing; the exact number is not known. Of the 370 locations, approximately 244 have white-tailed deer, and 120 have other species of cervid. The proposed rule applies to the 120 locations that do not have white-tailed deer. Farm-raised deer keepers who are not keeping white-tailed deer are not required to report the acreage of the locations where they keep farm-raised deer, unless the location is a hunting preserve. Therefore, the department is unable to assess with any precision the total amount of fencing that will need to be installed.

The proposed rule provides that currently existent fencing that is in good repair and that meets the requirements of Wis. Stat. § 90.20 may continue to serve in some capacity as part of an enhanced fencing system:

A 7'10" fence that is in good repair and compliant with all existing requirements, may serve as the base for a solid fence or an electric fence and may be one of the fences in a double-fenced system.

A 5' fence for genus rangifer (reindeer) that is in good repair and is compliant with all existing requirements may be maintained as the interior fence of a double fenced system only.

All new fences must be built to be 8' tall and must meet fencing standards as set out in the rule.

Any existing fences that must be re-built in order to be compliant with the requirements of Wis. Stat. § 90.20 must be re-built to the standards specified in the rule.

Fencing costs will vary depending on the acreage and terrain of the land to be fenced, labor costs, existing fence types, and the type of fence to be installed.

Materials costs

The department consulted Kencove.com and obtained the following estimated costs for materials for a hypothetical one square acre of fencing:

1. A second fence would cost approximately \$3,646 for a square acre (\$1.85 per foot material plus \$2.50 per foot labor), not including gates or shipping and handling, calculated and using materials as follows:

Using Fastlock Deer Fence, 20 horizontal lines, 96 inch height, 6 inch vertical spacing, 12.5 gauge high tensile wire, 330' roll (\$363.50 per roll) and 5" x 12' tapered pine wood posts (\$15.15 per post).

- One square acre would require 836 feet of fencing or 2.53 rolls of fence (\$919.65) + 42 posts (20 ft spacing) (42 x \$15.15 = \$636.30) for a total of \$1,556 for a square acre.

2. Three strands of electric fence would cost approximately \$75.96, or \$350 for square acre (\$.09 or \$.41 per foot), not including insulators, electric power unit, electricity, or shipping and handling, calculated using materials as follows:

- Using 14 gauge ¼ mile (1,320 feet) electric fence wire (\$31.99 per roll) and 5' steel T posts (\$5.95 per post).

- One square acre would require 836 feet of electric fencing x 3 strands (\$31.99 x 3 = \$99.97) + 42 posts (20 ft spacing) (42 x \$5.95 = \$250) for a total of \$350. If the electric wire is attached directly to the existing fence posts, T posts would not have to be purchased, and the total cost would be \$75.96 for a square acre.

3. There are various options for a solid fence, as no specific material is required. The requirement is that the fence must be constructed and maintained to prevent physical or visual contact. A solid fence that is created by adding shade cloth with 70% density and metal grommets that is secured to the fence every 2 feet via stainless steel cable would cost approximately \$2.65 per foot, or \$2,215.40 for a square acre.

Note that the hypothetical one square acre example that is utilized above will tend to magnify the costs as the ratio of fencing perimeter to area ordinarily decreases with an increase in area. Thus deer farms with areas larger than an acre will not experience costs that are a strict multiple of the estimate here.

Labor costs

The department consulted Straightline Fencing and obtained the following estimated labor costs for fencing installation (non-solid barrier):

- Ideal ground / open field fencing installs ~ \$2.00/ft
- Moderate hills / obstructions / clearing ~ \$2.50/ft
- Hard ground winter work / swamps / thick brush / forest ~ \$3.00-\$4.00/ft

Farm-raised deer keepers may elect to install the fencing themselves, thereby reducing the out-of-pocket costs related to the labor costs of fencing.

Movement. The proposed rule will ban movement of farm-raised deer located in a county designated by the Department of Natural Resources as being affected by chronic wasting disease unless that deer is moved directly to a slaughter establishment, other herds within CWD affected counties, or out of state. As of 2018, there are 55 out of 72 counties designated by the DNR as CWD-affected. These counties include 288 farm-raised deer herd locations with a total of approximately 14,500 farm-raised deer.

The rule allows herds in affected counties to continue to trade with each other, to move deer to slaughter, and to move deer across state lines if other states will accept their deer. The rule may negatively impact income for deer farmers in CWD-affected counties if they are accustomed to selling or exhibiting cervids in locations within the 17 currently unaffected counties. These farmers will need to identify new markets within the 55 affected counties, or in other states that will continue to accept their deer. Since there are more herds in affected counties than in unaffected ones, the net impact of the ban is not anticipated to be significant.

Licensed and Unlicensed Dog Breeders, Licensed Dog Sellers and Licensed Dog Facility Operators

Upon the effective date of this rule, no person may import a sexually intact dog for breeding, and no licensed dog seller or dog facility operator may import a sexually intact dog without obtaining a negative test for *Brucella canis* on a test approved by the department and completed within 30 days of import.

There will be no cost to the dog breeder or licensed dog breeder, seller, or dog facility operator if the *Brucella canis* test is done before the animal is imported to Wisconsin. Otherwise, the importer will have veterinarian costs associated with testing the imported dog. According to inquiries by Department staff to 3 veterinarians in different areas of the state, fees charged for a

Brucella canis test ranged from \$35 to \$92. The total number of imported dogs that are subject to this requirement is unknown,

Upon the effective date of this rule, no licensed dog seller or dog facility operator may import a dog without obtaining a negative heartworm test approved by the department and completed within 6 months of import.

There will be no cost to the licensed dog seller or dog facility operator if the heartworm test is done before the animal is imported to Wisconsin. Otherwise, the importer will have veterinarian costs associated with testing the imported dog. According to inquiries by Department staff to 3 veterinarians in different areas of the state, fees charged for heartworm testing ranged from \$16 to \$45.75. The total number of dogs imported by-licensed dog sellers or dog facility operators is unknown.

Upon the effective date of this rule, the CVI of any dog imported to Wisconsin must have a statement that the dog has no known prior positive heartworm test, or if the dog had a prior positive heartworm test, that the dog received appropriate treatment protocol as recommended by the American Heartworm Society, and the treatment dates must be listed.

These statements are not expected to increase costs to persons importing dogs because a CVI must accompany all imported dogs, and the statement does not require the dog to be tested for heartworm prior to importation.

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.

Reporting, Bookkeeping and other Procedures

Veterinarians Issuing a Certificate of Veterinary Inspection (CVI)

To reflect federal requirements, a veterinarian who issues a CVI for export no longer has to file a copy of the CVI with the chief livestock health official of the state of destination because the department will do this.

The CVI for farm-raised deer imported to, or moved within Wisconsin, must list two individual identifications of each farm-raised deer, rather than only the official individual identification.

Poultry Producers

A person will no longer have to apply to the department to enroll their flock as a Wisconsin tested flock or a Wisconsin associate flock. 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 (NPIP).

A person who sells poultry or eggs from a flock enrolled in the national poultry improvement plan, or a Wisconsin tested flock, Wisconsin associate flock, or individually tested birds, must 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.

Farm-Raised Deer Keepers

A person who is qualified to collect a CWD test sample must submit the sample to a veterinarian within 9 calendar days after the deer dies or is killed or slaughtered, rather than within 2 business days.

The proposed rule will limit the movement of farm-raised deer. However, individuals moving eligible farm-raised deer, will be affected as follows:

- A person who receives a farm-raised deer but does not own the deer must keep all the records required under Wis. Admin. Code § ATCP 10.46 (10), including when the deer entered the herd, when the deer leaves the herd, if the deer escapes to the wild, if the deer is shipped to slaughter, if the deer dies, or the deer is killed or slaughtered on the premises. Records must be retained for 5 years. He or she must test the deer for CWD and keep the 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. Records must also be kept regarding CWD test results for that deer when required and must be retained for 5 years.
- A farm-raised deer keeper whose herd is enrolled in the CWD herd status program and moves a deer to another location owned by the keeper must test the deer for CWD upon death and keep the test results for at least 5 years.

Fish Farmers

In accordance with Wis. Stat. § 29.733 (1h), a person applying for an initial fish farm registration must first contact the Wisconsin Department of Natural Resources to determine whether a natural waterbody permit must be obtained.

All fish health certificates and import permits must be kept as records (not just health certificates that accompany an import permit).

A person importing fish to a registered fish farm must have an import permit issued by the department only when fish or fish eggs harvested from the wild are imported to a registered fish farm.

A person may move fish found to be susceptible to viral hemorrhagic septicemia (VHS) from a type 3 fish farm to another type 3 fish farm without a health certificate.

Persons who Import Dogs to Wisconsin

No person may import a sexually intact dog for breeding and no licensed dog seller or dog facility operator may import a sexually intact dog without obtaining a negative test for *Brucella canis* completed within 30 days prior to the import using a test method approved by the department.

No licensed dog seller or dog facility operator may import a dog without obtaining a negative heartworm test completed within 6 months of the import using a test approved by the department.

If the imported dog is less than six weeks old, it must be accompanied by its dam, and the dam must have documentation meeting these testing requirements.

This testing information must be documented on the CVI of the imported dog.

No person may import a dog without a CVI including a statement that the dog has no known prior positive heartworm test, or, if the dog had a prior positive heartworm test, the dog received appropriate treatment protocol as recommended by the American Heartworm Society with the treatment dates listed.

Animal Truckers, Markets and Dealers

An animal trucker who receives any bovine or swine for sale or shipment to slaughter is exempt from having to identify the animal with an official back tag and record the back tag number if the trucker: 1) picks up bovine animals/swine from a farm premises and takes the bovine animals/swine directly to a slaughtering establishment; and 2) the bovine animals/swine are not commingled with animals picked up from other farms.

An animal dealer or market operator who receives market swine will no longer have to record the official individual identification of that swine nor apply identification to the swine if the swine does not have identification, unless shipment to slaughter does not occur. Market swine is defined as 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.

Professional Skills Required

The proposed rule does not specify any professional skills required for small businesses.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” This rule does not make special exceptions for small business, because disease does not differentiate or respect business size.

Some of the rule provisions reflect federal USDA regulations that, again, do not differentiate by business size.

Dated this 12th day of September, 2018.