

# STATEMENT OF SCOPE

## Department of Agriculture, Trade and Consumer Protection

Rule No.: Ch. ATCP 10, Wis. Admin. Code (Existing)

Relating to: Animal Disease and Movement

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

### 2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to evaluate and modify animal disease and movement program fees in the following programs:

- Movement
- Brucellosis
- Tuberculosis
- Johne's
- Feed Lot
- Pseudorabies
- Equine Infectious Anemia (EIA)
- Equine Quarantine
- Medical Separation
- Poultry
- Farm-Raised Deer
- Fish Farms

The objective of the proposed rule is also to evaluate for improvements and updates: subchapter I regarding definitions and general provisions, appendix A regarding diseases reported within one day, and appendix B regarding diseases reported within 10 days.

The following table shows the existing fees relevant to this rule, as well as the statutory authority and the year that the fee was last changed. Most fees in this rule were last evaluated in 2008 or 2009. Over time, standard costs have continued to increase. The associated program revenue appropriation (appropriated by Wis. Stat. s. 20.115 (2) (ha)) no longer has adequate revenue to recover costs. The department is not able to reduce expenditures to the level of current revenues without resulting in a failure to fulfill statutory requirements under Wis. Stat. chs. 93 and 95.

(See pdf for image)

Program Area	Fee Description	Fee Last Changed	Admin. Code Citation	Statutory Authority Citation	Current Fee
Movement	CVI Interstate Movement Form	2008	ATCP 10.06 (3) (b)	93.06 (1g)	5.60
	CVI Intrastate Movement Form	2008	ATCP 10.06 (3) (b)	93.06 (1g)	0.60
Brucellosis	Certification: Bruc-Free Bovine Herd	2009	ATCP 10.12 (1)	93.06 (1m)	50.00
	Certification: Bruc-Free Swine Herd	2009	ATCP 10.29 (1)	93.06 (1m)	50.00
	Certification: Bruc FRD Herd	2009	ATCP 10.51 (2m)	93.06 (1m)	150.00
	Certification: Bruc-Free Sheep Flock	2009	ATCP 10.68 (2m)	93.06 (1m)	50.00
	Certification: Bruc-Free Goat Herd	2009	ATCP 10.73 (2m)	93.06 (1m)	50.00
Tuberculosis	Certification: TB-Free Bovine Herd	2012	ATCP 10.14 (1)	93.06 (1m)	100.00
	Certification: TB FRD Herd	2009	ATCP 10.49 (1m)	93.06 (1m)	150.00
	Certification: TB-Free Goat Herd	2009	ATCP 10.74 (1m)	93.06 (1m)	50.00
Johne's	Certification: Johne's Disease	2009	ATCP 10.20 (1)	93.06 (1m)	50.00
Feed Lot	Permit: Approved Import Feed Lot	2009	ATCP 10.22 (9) (b)	95.715 (2) (d)	140.00
Pseudorabies	Certification: Qualified Negative Herd	2009	ATCP 10.27 (1)	93.06 (1m)	50.00
	Certification: Qualified Grow-Out Herd	2009	ATCP 10.27 (2)	93.06 (1m)	50.00
	Certification: Feeder Monitoring Herd	2009	ATCP 10.27 (3)	93.06 (1m)	50.00
EIA	Equine Infectious Anemia Retest	2006	ATCP 10.35 (5) (a)	93.06 (1p)	25.00
Equine Quarantine	Import Permit: Equines at Risk	2009	ATCP 10.37 (1) (a) 2.	93.06 (1p)	100.00
	Permit: Equine Quarantine Station	2009	ATCP 10.37 (3) (g)	93.06 (1m)	100.00
Medical Sep.	Inspection: Medical Separation	2020	ATCP 10.25 (1)	93.06 (1m)	400.00
Poultry	Training: Blood Sample Collection	2009	ATCP 10.40 (4) (a) 1.	95.57 (2)	25.00
	NPIP: Specialty Birds for Exhibition	2009	ATCP 10.41 (5) (a)	95.57 (2)	40.00
	NPIP: Non-Breeding	2009	ATCP 10.41 (5) (b)	95.57 (2)	40.00
	NPIP: Non-Breeding, Includes Game	2009	ATCP 10.41 (5) (c)	95.57 (2)	60.00
	NPIP: Breeding Flock, 1-1,000	2009	ATCP 10.41 (5) (d) 1.	95.57 (2)	80.00
	NPIP: Breeding Flock, 1,001-5,000	2009	ATCP 10.41 (5) (d) 2.	95.57 (2)	100.00
	NPIP: Breeding Flock, 5,001-10,000	2009	ATCP 10.41 (5) (d) 3.	95.57 (2)	200.00
	NPIP: Breeding Flock, 10,001+	2009	ATCP 10.41 (5) (d) 4.	95.57 (2)	400.00
Farm-Raised Deer	Registration: <15, Not Enrolled	2012	ATCP 10.46 (7) (a) 1.	95.55 (3) (a)	85.00
	Registration: <=15 Animals	2009	ATCP 10.46 (7) (a) 2.	95.55 (3) (a)	162.50
	Registration: >15 Animals	2009	ATCP 10.46 (7) (a) 3.	95.55 (3) (a)	325.00
	Registration Surcharge	2009	ATCP 10.46 (7) (c)	95.55 (3) (a)	250.00
	Reinspection: Farm-Raised Deer	2012	ATCP 10.46 (14)	95.55 (3) (b)	150.00
	Certificate: Hunting Ranch	2009	ATCP 10.47 (3) (b) 4.	95.55 (3) (a)	500.00
	CWD Test Sample Collector	2014	ATCP 10.52 (4) (ag)	95.55 (6)	50.00
Fish Farms	Registration: Type 1, 1	2008	ATCP 10.61 (7) (a) 1.	95.60 (5)	37.50
	Registration: Type 1, 2+	2008	ATCP 10.61 (7) (a) 1.	95.60 (5)	50.00
	Registration: Type 2/3, 1-5	2008	ATCP 10.61 (7) (a) 2.	95.60 (5)	125.00
	Registration: Type 2/3, 6-10	2008	ATCP 10.61 (7) (a) 2.	95.60 (5)	150.00
	Registration: Type 2/3, 11-20	2008	ATCP 10.61 (7) (a) 2.	95.60 (5)	200.00
	Registration: Type 2/3: 21+	2008	ATCP 10.61 (7) (a) 2.	95.60 (5)	300.00
	Surcharge: Type 1, 1	2008	ATCP 10.61 (7) (e)	95.60 (5)	37.50
	Surcharge: Type 1, 2+	2008	ATCP 10.61 (7) (e)	95.60 (5)	50.00
	Surcharge, Type 2/3, 1-5	2008	ATCP 10.61 (7) (e)	95.60 (5)	125.00
	Surcharge: Type 2/3, 6-10	2008	ATCP 10.61 (7) (e)	95.60 (5)	150.00
	Surcharge: Type 2/3, 11-20	2008	ATCP 10.61 (7) (e)	95.60 (5)	200.00
	Surcharge, Type 2/3: 21+	2008	ATCP 10.61 (7) (e)	95.60 (5)	300.00
	Reinspection: Fish Farm	2012	ATCP 10.61 (13) (a)	95.60 (5m)	150.00
	Import Permit: Fish	2008	ATCP 10.62 (4) (a) 2.	95.60 (5)	90.00

### **3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

#### *Existing Policies Relevant to the Rule:*

This rule relates to animal health program fees. The table under section 2 shows the existing fees relevant to this rule, as well as the statutory authority and the year that the fee was last changed. Most fees in this rule were last evaluated in 2008 or 2009.

The existing rule also includes subchapter I regarding definitions and general provisions, appendix A regarding diseases reported within one day, and appendix B regarding diseases reported within 10 days.

#### *New Policies Proposed to be Included in the Rule and Analysis of Policy Alternatives:*

The department proposes evaluating and modifying animal health program fees to ensure there is adequate cost recovery. This includes evaluating and modifying existing fee amounts and evaluating and modifying or adding categories related to these programs within existing statutory authority. The associated appropriation is currently under-recovering. Without the proposed rule, the department would not be able to evaluate animal health program fees. The appropriation would continue to under-recover and would develop a negative cash balance.

The department also proposes evaluating for improvements and updates: subchapter I regarding definitions and general provisions, appendix A regarding diseases reported within one day, and appendix B regarding diseases reported within 10 days. Without the proposed rule, the department would not be able to evaluate these sections for improvements and updates.

### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Citations to specific statutory authority are included in section 1. The language from these citations is included below.

Section 93.06 (1g), Stats., authorizes the department to charge a fee for certificates of veterinary inspections forms as follows:

#### **93.06 (1g) Certificates of Veterinary Inspection.**

Furnish, to veterinarians in this state, forms to be used by them in issuing certificates of veterinary inspection. The department may charge a \$2 fee for each form unless the department specifies a different fee by rule.

Section 93.06 (1m), Stats., authorizes the department to charge uniform fees for service inspections of farm products as follows:

#### **93.06 (1m) Service Inspections of Farm Products.**

Upon request or for grading or certification purposes, inspect animals, plants, farm products, food products and agricultural commodities, as defined in s. 96.01 (3). Inspection may include examination, diagnosis, sample collection and analysis, weighing and testing and the supervision of any of those activities. Facilities, equipment, vehicles and vessels used in the production, processing, storage or distribution of the animals, plants, farm products, food products or agricultural commodities may be inspected. Inspection and certification may be performed in cooperation with any federal agency. To enable such inspection and certification service, the department may charge uniform fees and may bring an action to recover the fees, including reasonable costs of collection.

Section 93.06 (1p), Stats., authorizes the department to charge a fee for service testing related to department programs as follows:

#### **93.06 (1p) Service Testing Related to Department Programs.**

Provide inspection services, diagnostic services and analytical or testing services upon request if the requested service is related to an authorized department program and serves program objectives. The department may charge a fee to cover its cost to provide the requested services.

Section 95.001 (2), Stats., authorizes the department to promulgate rules related to the definition of “contagious or infectious diseases” as follows:

**95.001 (2)**

The department shall promulgate rules defining the term “contagious or infectious diseases” as used in this chapter.

Section 95.19 (3), Stats., authorizes the department to promulgate rules related to diseased animals as follows:

**95.19 (3) Rule Making.**

The department may promulgate rules:

- (a) Authorizing the transport under a department permit of an animal exposed to or infected with a contagious or infectious disease for slaughter or other purposes prescribed by the department.
- (b) Specify those contagious or infectious diseases to which the prohibitions of sub. (2), and the rules promulgated under par. (a), apply.

Section 95.195 (4), Stats., authorizes the department to promulgate rules related to diseases and implied warranty in sale of animals as follows:

**95.195 (4) Rules.**

The department shall promulgate rules that do all of the following:

- (a) Specify covered diseases.
- (b) Specify types of animals to which this section applies.
- (c) Prescribe a system for determining management classifications of herds with respect to covered diseases.

Section 95.20, Stats., authorizes the department to prohibit or regulate the import or movement of animals as follows:

**95.20 Import and movement of animals.**

The department may prohibit or regulate the importing of animals into this state or the movement of animals within this state if the department has reasonable grounds to believe that regulation or prohibition is necessary to prevent the introduction or spread of a disease in this state that threatens the health of animals or of humans.

Section 95.22 (2), Stats., authorizes the department to promulgate rules related to reporting animal diseases as follows:

**95.22 (2)**

The department shall promulgate rules that specify all of the following:

- (a) The diseases that a veterinarian or the department of natural resources must report under this section.
- (b) For each disease specified in par. (a), the deadline for reporting the disease after the date of its discovery.
- (c) The information that a veterinarian or the department of natural resources must include in his or her report.
- (d) Procedures to be used in preparing and submitting the report.

Section 95.32 (5), Stats., authorizes the department to promulgate rules related to appraised value as follows:

**95.32 (5)**

- (a) The department shall promulgate rules specifying animal types for the purposes of this section. The animal types may be based on characteristics of animals that include species, gender and age. The rules shall specify whether each animal type is frequently sold at public auction.

- (b) The department shall promulgate rules specifying the period of public auction sales that will be used in the appraisal of each animal type to which sub. (2) applies. The period may not begin more than 6 months before the date on which the department makes the appraisal.
- (c) The department shall promulgate rules specifying methods for determining the appraised value of animals of animal types that are not frequently sold at public auction. The methods shall be as consistent as possible with methods under sub. (2).

Section 95.45 (4) (c), Stats., authorizes the department to promulgate rules related to certificates of veterinary inspection as follows:

**95.45 (4) (c)**

The department may promulgate rules to impose requirements on the form, issuance, and filing of certificates of veterinary inspection.

Section 95.55 (3), Stats., authorizes the department to charge farm-raised deer registration fees and reinspection fees as follows:

**95.55 (3) Registration Fee; Reinspection Fee.**

- (a) The department shall, by rule, specify the fee for registration under this section. The department may not require an individual who is eligible for the veterans fee waiver program under s. 45.44 to pay a fee for registration under this section.
- (b)
  - 1. If the department reinspects the premises where farm-raised deer are kept because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the person registered under this section the reinspection fee specified under subd. 2.
  - 2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the premises. The department may specify different reinspection fees for different premises.
  - 3. A reinspection fee under this paragraph is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a registration renewal application form to the person registered to keep farm-raised deer under this section.

Section 95.55 (6), Stats., authorizes the department to promulgate rules regarding farm-raised deer as follows:

**95.55 (6) Rules.**

- (a) The department shall promulgate rules to regulate persons who keep farm-raised deer. The rules shall establish disease testing requirements for bovine tuberculosis and chronic wasting disease and may establish testing requirements for other diseases.
- (b) The rules promulgated under this subsection may include any of the following:
  - 1. Standards to be followed by persons keeping farm-raised deer to prevent the spread of disease.
  - 2. Provisions requiring that registration under this section be on an annual basis.
  - 3. Exemptions from any annual registration requirements established under subd. 2.

Section 95.57 (2), Stats., authorizes the department to charge a fee for persons participating in the national poultry improvement plan as follows:

**95.57 (2) Fees.**

The department shall promulgate a rule to set any fee that it imposes on a person for participation in the national poultry improvement plan.

Section 95.60 (5), Stats., authorizes the department to charge fees for permits, certificates, registration and inspections related to fish farms as follows:

**95.60 (5)**

The department shall, by rule, specify the fees for permits, certificates, registration and inspections under this section, including any reinspection fees required under sub. (5m). The department may not require an individual who is eligible for the veterans fee waiver program under s. 45.44 to pay a fee for a permit under sub. (2) (a) or a registration under sub. (3m).

Section 95.60 (5m), Stats., authorizes the department to charge a fee for the reinspection of fish farms as follows:

**95.60 (5m)**

- (a) If the department reinspects a fish farm because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the fish farm operator the reinspection fee specified under par. (b).
- (b) The department shall specify the reinspection fee to be charged under par. (a) by rule. The reinspection fee may not exceed the reasonable costs to reinspect the fish farm. The department may specify different reinspection fees for different fish farms.
- (c) A reinspection fee under this subsection is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues a registration renewal application form to the fish farm operator.

Section 95.715 (2) (d), Stats., authorizes the department to charge a fee for feed lot permits as follows:

**95.715 (2) (d)**

The department may promulgate rules to specify permit fees under par. (a) and to regulate feed lots. The rules may include requirements related to the construction and maintenance of approved feed lots, the segregation of imported feeder cattle and record-keeping requirements related to feeder cattle.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The department estimates that it will use approximately 600 hours to develop this rule.

**6. List with description of all entities that may be affected by the proposed rule :**

Entities participating in animal health programs may be affected by the proposed rule, including:

- Veterinarians issuing certificates of veterinary inspection
- Livestock entities participating in disease certification programs for: brucellosis, tuberculosis, Johne's, or pseudorabies
- Feed lots
- Equine entities needing an equine infectious anemia retest, an import permit for equines at risk for equine metritis, or an equine quarantine station permit
- Livestock entities with medical separation
- Poultry entities needing blood sample collection training or National Poultry Improvement Plan enrollment
- Farm-raised deer keepers, hunting ranches, or entities participating in CWD test sample collector training
- Fish farms and entities requiring fish import permits
- Farmers and livestock owners participating in the above programs

The proposed rule may also impact consumers, animal owners, and other persons and groups who benefit from the department fulfilling its animal health duties under Wis. Stat. chs. 93 and 95.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

The department administers animal disease control programs in cooperation with the United States Department of Agriculture – Animal and Plant Health Inspection Service (USDA APHIS). Federal cooperative agreements with USDA APHIS partially fund specific work objectives, which does not include work and costs associated with these program fees. USDA APHIS does not license animal businesses and does not regulate state fees. This rule does not duplicate or conflict with any federal fees or standards.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The objective of the proposed rule is to evaluate and modify animal health program fees. Most affected entities are small businesses, pursuant to the definition under Wis. Stat. s. 227.485 (2) (c).

The overall anticipated economic impact is moderate but could be significant for individual entities depending upon the individual business and the amount of the fee change evaluated.

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