

DATCP Docket No. 07-R-01
 Rules Clearinghouse No: _____

Proposed Hearing Draft
 October 31, 2007

**PROPOSED ORDER OF THE STATE OF WISCONSIN
 DEPARTMENT OF AGRICULTURE, TRADE
 AND CONSUMER PROTECTION
 ADOPTING AND AMENDING RULES**

2 The Wisconsin department of agriculture, trade and consumer protection proposes the
 3 following order *to repeal* ATCP 10.55(3)(c) and (d), (4)(c) and (d), and (5),
 4 10.60(4)(note), 10.61(3)(note) and (5)(note), 12.02(5), 12.03(6), 12.04(2)(c)3. and (5),
 5 and 17.02(4)(h)11. and 12.; *to amend* ATCP 10.01(39) and (59), 10.04(1)(title) and
 6 (a)(intro.), 10.08(4) and (5), 10.11(5)(a)1., 10.15(6), 10.19(2)(b) and (3)(a), 10.22(9)(b),
 7 10.37(1)(a)2., 10.40(1)(d)1. and (4)(b)1., 10.41(2) and (6), 10.46(3), (6)(c), (7)(b) and (c),
 8 (8), (9)(b) and (11)(c), 10.47(7)(b)6., 10.48(6)(c), 10.52(1)(intro.), 10.53(5)(f)1. and
 9 (8)(b), 10.55(4)(b), 10.56(3)(d)1., 10.61(1)(intro.) and (note), and (2)(intro.), 10.63(2),
 10 10.64(1) and (2), 10.65(1), 10.75, 12.02(1), 12.045(3)(a), 12.045(4), 12.05(4),
 11 12.06(1)(bc), 12.08(6), 17.01(8) and (28), and 17.02(1) and (note), (2)(a)(note), (2)(b),
 12 (4)(d), (5)(d) and (6)(a); *to repeal and recreate* ATCP 10.07(4)(c), 10.22(5)(b)4.,
 13 10.42(1)(a), 10.46(title) and (1), 10.46(4) and (5), 10.51(2), 10.52(3)(a) and (8),
 14 10.56(4)(b), 10.61(3), (5), (6) and (7), 10.65(4) and (5)(b)4., 12.045(1) and (note), and
 15 17.02(2)(c) and (4)(h)1. and 8. to 10.; and *to create* ATCP 10.01(31m) and (63m),
 16 10.04(1)(a)5. and 6., 10.09, 10.15(1)(d), 10.22(7m), 10.46(6)(em), 10.47(3)(b)5. and 6.,
 17 (4m) and (4m)(note), 10.49(4), 10.51(4), 10.53(5)(f)5., (5)(g) to (i) and (i)(note),
 18 10.56(1)(d) and (4)(c), 10.61(12) and (note), 10.62(2)(b)3. and (c)3., 10.64(3), 10.645
 19 and (note), 10.85, 10.92(1)(r), 12.02(8)(j), 12.03(9)(i), 12.05(6), and 17.02(2)(c)(note)

1 and (2)(d); *relating to* animal diseases and movement; animal markets, dealers and
2 truckers; and livestock premises registration.

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

This rule modifies Wisconsin animal health and disease control rules. Among other things, this rule:

- Establishes new rules related to viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. DATCP has adopted temporary emergency VHS rules, which this rule would make “permanent.”
- Modifies current rules related to farm-raised deer, including rules related to herd registration, disease control, imports, movement and condemnation. Changes are consistent with proposed federal rules.
- Modifies current rules related to cattle, including rules related to voluntary Johne’s disease testing and classification, tuberculosis import testing, and imports of cattle originating from Mexico.
- Modifies current rules related to poultry imports and enrollment in the national poultry improvement program.
- Modifies current rules related to animal markets, dealers and truckers.
- Modifies current rules related to Wisconsin’s livestock premises registration program. This rule makes it easier to register, and extends the current annual registration period to 3 years.
- Clarifies current disease indemnity appraisal procedures.
- Makes minor drafting changes to update, clarify and correct current rules.

Statutory Authority

Statutory Authority: ss. 93.07(1) and (10), 95.18, 95.19(3), 95.197(2), 95.20, 95.22(2), 95.32(5), 95.38(3), 95.45(4)(c) and (5), 95.51(7), 95.55(6), 95.57(1), 95.60(3), (4)(c) and (4s), 95.65(2), 95.68(8), 95.69(8) and 95.71(8), Stats.

Statute Interpreted: s. 93.07(10), 95.18, 95.19, 95.197, 95.20, 95.22, 95.23, 95.32, 95.36, 95.38, 95.45, 95.51, 95.55, 95.57, 95.60, 95.65, 95.68, 95.69 and 95.71, Stats.

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

Rule Contents

The Wisconsin department of agriculture, trade and consumer protection (DATCP) administers Wisconsin's animal health and disease control program. This rule modifies current DATCP rules under chs. ATCP 10 (animal diseases and movement), ATCP 12 (animal markets, dealers and truckers) and ATCP 17 (livestock premises registration).

Fish

Fish Farm Registration

This rule allows a fish farm operator to register 2 or more fish farms under a single annual registration certificate (under current rules, a separate registration certificate is required for each fish farm). A single registration certificate may cover both type 1 and type 2 fish farms. The registration certificate must identify each fish farm location, and must indicate whether that location is registered as a type 1 or type 2 fish farm. As under current rules, the operator must pay annual fees based on the number and types of fish farms registered (this rule does not change current fees).

This rule clarifies that fish may be moved between type 2 fish farms registered to the same operator, or from a type 2 to a type 1 fish farm registered by the same operator, without a fish health certificate. Under this rule, as under current rules, the fish farm operator must keep complete records of the fish movement.

VHS Test Reports

Under this rule, a veterinarian who tests fish in this state for viral hemorrhagic septicemia (VHS) must report the test result to DATCP, regardless of whether the test result is positive or negative.

VHS Testing Requirements

Current DATCP rules require health certificates for all of the following:

- Fish and fish eggs (*including* bait) imported into the state.
- Fish and fish eggs stocked into Wisconsin public waters.
- Fish and fish eggs moved between Wisconsin fish farms.

Under current rules, *import* health certificates must include VHS testing if the import shipment includes salmonids (salmon, trout, etc.) or originates from a state or province where VHS is known to occur. VHS testing is *not* currently required for any of the following:

- Fish or fish eggs stocked into Wisconsin public waters from *Wisconsin* sources.
- Bait fish or fish eggs originating from *Wisconsin* sources.
- Fish or fish eggs moved between *Wisconsin* fish farms.
- Non-salmonids imported from states (such as Minnesota) where VHS has not yet been found.

This rule expands current VHS testing requirements. Under this rule, a fish health certificate and VHS testing are required for all of the following fish and fish eggs if they are of a *known VHS-susceptible species* identified by the United States department of agriculture (USDA) and were either (1) collected from a wild source in any state within the preceding 12 months, or (2) kept on a fish farm that received fish or fish eggs of *any* species collected from a wild source in any state within the preceding 12 months:

- Fish or fish eggs stocked into Wisconsin public waters.
- Fish or fish eggs moved between Wisconsin fish farms.
- Fish or fish eggs distributed by a bait dealer for use as bait. The bait fish testing requirement will initially apply to emerald shiners (a known VHS-susceptible species), but will *not* initially apply to other major bait species such as fathead minnows, white suckers and golden shiners (which are not yet known to be VHS-susceptible). However, it could eventually apply to other species if USDA finds that those species are also VHS-susceptible. A retail bait dealer is not required to conduct duplicate tests on fish previously tested by a wholesale bait dealer.

This rule also prohibits any person from selling bait fish *of any kind* if the seller has reason to know that the bait is affected with VHS or another reportable disease.

Operators Moving Fish Between Their Own Fish Farms

This rule clarifies that VHS and other routine disease testing requirements do not apply when operators (including DNR) are moving fish or fish eggs between their own registered fish farms. However, current DATCP rules continue to prohibit such movement if the operator knows or has reason to know that the fish or fish eggs are affected with a reportable disease such as VHS. DATCP may also issue quarantine and other disease control orders to individual fish farm operators, as necessary.

Registrant Responsibility

This rule clarifies that a person who registers a fish farm is responsible for ensuring that fish farm operations comply with DATCP rules. However, this rule does not relieve other persons of liability for rule violations that they commit.

Farm-Raised Deer

Chronic Wasting Disease Test Reports

Under this rule, a veterinarian who tests a farm-raised deer in this state for chronic wasting disease must report the test result to DATCP, regardless of whether the test result is positive or negative.

Herd Registration; General

Under current rules, no person may keep farm-raised deer at any location in this state unless DATCP has issued a current annual registration certificate authorizing that person to keep farm-raised deer at that location. An annual registration certificate currently expires on December 31 of each year. This rule changes the annual expiration date to March 15, beginning with the first registration year beginning after the effective date of this rule.

One Registered Herd Kept at 2 or More Locations

This rule clarifies that a person may keep farm-raised deer at 2 or more locations identified in a single herd registration certificate, subject to the following conditions:

- All of the herd locations must be actively enrolled in Wisconsin's chronic wasting disease status program.
- The registrant may move farm-raised deer between locations identified in the herd registration certificate *without* a certificate of veterinary inspection if all of the following apply:
 - Those farm-raised deer are identified with official individual identification.
 - The registrant keeps a detailed record of the movement.
- All farm-raised deer covered by the registration certificate will be treated as members of a single herd, for purposes of disease control and movement.

Two or More Registered Herds Kept at One Location

Under this rule, separately-registered farm-raised deer herds may be kept at the *same location* (even if they are owned by different persons) subject to the following conditions:

- If the herds are “medically separated,” each herd is considered a separate herd for purposes of disease control, movement, and enrollment in Wisconsin’s chronic wasting disease status program. Farm-raised deer moved between any of the medically separated herds must be accompanied by a certificate of veterinary inspection, and registrants must keep a detailed record of each movement.
- If the herds are *not* medically separated:
 - All of the farm-raised deer covered by the herd registrations are collectively treated as a single herd for purposes of disease control and movement, regardless of location or ownership, and regardless of whether they are part of the same registered herd.
 - Farm-raised deer may be moved between any of the herd locations identified on any of the herd registration certificates, without a certificate of veterinary inspection, provided that they are identified with official individual identification. Registrants must keep detailed records of the movements.
 - All of the herds, including all locations covered by the herd registration certificates, must be actively enrolled in Wisconsin’s chronic wasting disease status program.
- Herds are “medically separated,” for purposes of this rule, if all of the following apply:
 - They are separated by a double fence meeting Department of Natural Resources (DNR) standards or, in the case of farm-raised deer other than white-tailed deer, by a functionally equivalent barrier approved by DATCP.
 - Bio-security procedures effectively prevent disease transmission between the herds.
 - The department inspects each shared herd location, and finds that the herds are “medically separated.” There is an inspection fee of \$150 (no change from current rules).

Chronic Wasting Disease Tests

Under current rules, a farm-raised deer keeper must have a chronic wasting disease test performed on every farm-raised deer at least *16 months old* that dies in captivity, or is killed or sent to slaughter (the test sample must be sent to an approved laboratory within 10 days after it is collected). Under this rule, testing is required for deer at least *8 months old* that meet the same criteria. Under this rule, a test sample must be collected within 10 days after the animal dies, or is killed or slaughtered (or within 10 days after the death is first discovered). Under this rule as under the current rules, the test sample must be sent to an approved laboratory within 10 days after it is collected.

Condemnation of Farm-Raised Deer

This rule clarifies current rules related to DATCP condemnation of diseased or suspect farm-raised deer. Under this rule, a condemnation order may do all of the following:

- Specify a reasonable deadline for destruction of the condemned animals.
- Direct appropriate disease testing and disposition of the carcasses.
- Require the herd owner or custodian to enter into a “premises plan” as a condition to the payment of state indemnities. The “premises plan” may require the herd owner or custodian to clean and disinfect the herd premises, limit future cervid movement to and from the premises, or comply with other requirements that are reasonably designed to prevent the spread of disease. A “premises plan” may include a restrictive covenant, such as a fence maintenance requirement, that is binding on subsequent property owners for the duration of the agreement.

Under current rules, the owner of condemned farm-raised deer may apply for state indemnity payments. Under this rule, an application for indemnity payments must include proof of compliance with DATCP’s condemnation order.

Chronic Wasting Disease Herd Status Program; Annual Census

Under current rules, no person may move farm-raised deer from a herd in this state unless the herd is enrolled in Wisconsin’s chronic wasting disease herd status program. Enrollees must, among other things, submit an annual herd census to DATCP. Among other things, an annual herd census must report the number, species and sex of animals that have left the herd since the last annual census, and how those animals left the herd. Under this rule, an annual herd census must also include:

- A report of apparent escapes, including approximate escape dates and circumstances, and steps taken to prevent recurring escapes.
- An explanation and accounting for overall changes in herd population since the last annual census.
- Census verification by a Wisconsin certified veterinarian if required by the department.

White-tailed Deer Herd; Fence Certificate

Under current law, fences for farm-raised white-tailed deer herds must be approved by DNR, and must comply with DNR rules. Under this rule, a person applying for a DATCP registration certificate to keep white-tailed deer must include, with the application, a copy of a valid DNR fence certificate for each registered location.

Hunting Preserves

Under current law, a person operating a farm-raised deer hunting preserve must hold a hunting preserve registration certificate from DATCP (a certificate is valid for 10 years). Current rules spell out hunting preserve registration standards and application requirements. Under this rule, an application must also include all of the following:

- An estimate of the farm-raised deer population on the hunting preserve premises, by species, age and sex.
- The identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers.

Under this rule, all non-natural additions to a hunting preserve must have 2 forms of official individual identification, one visible and one implanted.

Disease-Free Certification of Farm-Raised Deer

Under current rules, DATCP may certify a herd of farm-raised deer as brucellosis-free or tuberculosis-free, or both, based on herd test results provided by the herd owner. Participation is voluntary, but disease-free herd certification facilitates the sale and movement of farm-raised deer. Herd certification is generally governed by federal rules (uniform methods and rules) that DATCP has incorporated by reference in its rules.

Under current federal rules, tuberculosis-free herd certification is good for 3 years, while brucellosis-free herd certification is good for only 2 years. USDA proposes to harmonize the certification terms, but has not yet adopted the necessary rule changes. USDA has authorized DATCP to harmonize the terms by state rule.

This rule extends brucellosis-free herd certification from 2 years to 3 years (a herd owner may request a shorter term), consistent with tuberculosis-free herd certification. That will allow herd owners to conduct simultaneous tests for both diseases. Simultaneous testing will reduce testing costs and limit stress on tested deer.

This rule also clarifies that DATCP may transfer a herd certification to new herd owner, or grant equivalent certification status to a new herd created from an existing certified herd, if the herd meets certification standards and the owner applies for certification within 90 days.

Tuberculosis in Farm-Raised Deer

Under current rules, a farm-raised deer must be slaughtered within 15 days if it is found to be a tuberculosis reactor, except that DATCP may extend the slaughter deadline by up to 15 days. Under this rule, DATCP may extend the slaughter deadline by up to 30 days.

Importing Farm-Raised Deer

Farm-raised deer imported to this state must meet standards specified in current rules. Among other things, the imported animal must meet one of several alternative requirements related to tuberculosis status. This rule modifies current import standards, based on current federal standards for interstate movement. This rule eliminates current requirements for post-import testing.

Moving Farm-Raised Deer Within Wisconsin

Farm-raised deer moved between separately registered herds in this state must meet standards specified in current rules. Among other things, the farm-raised deer must meet one of several alternative requirements related to tuberculosis status. Under one alternative, a farm-raised deer may qualify for movement if it tests negative on 2 tuberculosis tests, where the second test is performed within 360 days prior to movement. Under this rule, the second test must be conducted within 90 days prior to movement.

Under this rule, a farm-raised deer may not be moved between separately registered herds in this state unless it has been enrolled in Wisconsin's chronic wasting disease status program for at least 5 years. If the source herd is located in a DNR wild deer chronic wasting disease eradication zone, it must have been enclosed by a DATCP-approved double fence for at least 5 years.

Cattle

Johne's Disease Testing and Herd Classification

DATCP currently administers a voluntary herd testing and classification program related to Johne's disease in cattle. Herd testing and classification is conducted according to federal standards adopted by the United States department of agriculture (USDA). This rule incorporates the latest version (2006) of the USDA standards.

Under current rules, Johne's disease test samples must be collected by an accredited veterinarian, by an individual working under direct supervision of an accredited veterinarian who submits the sample for testing, or by an authorized DATCP or USDA employee or agent. Under this rule, a milk sample for Johne's disease testing may also be collected by a Dairy Herd Improvement Association (DHIA) authorized technician.

Imported Cattle and Bison; TB Test Exemption

Current rules exempt imported bovine animals (cattle and bison) from the requirement of a pre-import tuberculosis test if the animals originate from a state that USDA has classified as "TB-free" if that state accepts Wisconsin animals without a TB test. Under this rule, the exemption does not apply if the state of origin has a confirmed TB-positive herd, until that herd is depopulated and all epidemiologically linked herds have tested negative for TB.

Cattle and Bison from Mexico

Under this rule, no person may import an “M-branded” bovine animal (cattle or bison) to this state, except directly to slaughter. “M-branded” animals are animals branded with the letter “M” to signify that they have been imported from Mexico.

Poultry

National Poultry Improvement Plan Enrollment

Under current rules, a poultry flock owner may enroll the flock in the national poultry improvement program (DATCP administers the program in this state). Enrollment facilitates the sale and movement of poultry. Under this rule, a flock may not be enrolled in the program unless the flock premises have been registered under Wisconsin’s livestock premises registration program (the premises ID number must be included on the enrollment application).

Poultry Imports

Under current rules, poultry may not be imported to Wisconsin unless they are accompanied by a valid certificate of veterinary inspection that certifies *all* of the following:

- They originate from flocks enrolled in the national poultry improvement plan.
- They originate from flocks classified as “U.S. pullorum-typhoid clean” and, in the case of turkeys and turkey eggs, “Mycoplasma gallisepticum clean” under the national poultry improvement plan.

This rule changes current poultry import requirements. Under this rule, poultry may not be imported to Wisconsin unless they are accompanied by a valid certificate of veterinary inspection that certifies *at least one* of the following:

- They originate from flocks enrolled in the national poultry improvement plan.
- They originate from flocks classified as “U.S. pullorum-typhoid clean” and, in the case of turkeys and turkey eggs, “Mycoplasma gallisepticum clean” under the national poultry improvement plan or under an equivalent plan approved by DATCP.
- All test eligible birds have tested negative for pullorum, fowl typhoid and, in the case of turkeys, Mycoplasma gallisepticum within 90 days prior to import. Tested birds must bear official individual identification, and there may be no change of ownership between the test sampling date and the import date.

Llamas and Alpacas

Under this rule, a llama or alpaca imported to Wisconsin must be accompanied by a certificate of veterinary inspection that includes the official individual identification of the llama or alpaca.

Animal Markets

General

This rule does all of the following:

- Eliminates the current requirement for animal market operators to pass a test before being initially licensed by DATCP.
- Requires animal market operators to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal market operators to record the official individual identification of goats that bear official individual identification.
- Requires animal market operators to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.

Federally Approved Livestock Import Markets

Under current rules, certain livestock imported to a federally-approved livestock import market in this state are exempt from Wisconsin import requirements, provided that they meet those requirements before *leaving* the market. Under this rule, before the animals leave the market, the market operator must also disclose the animals' state of origin to the animal purchaser.

Animal Dealers

This rule does all of the following:

- Eliminates the current requirement for animal dealers to pass a test before being initially licensed by DATCP.
- Requires animal dealers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.

- Requires animal dealers to record the official individual identification of goats.
- Requires animal dealers to record the livestock premises code, if any, of each premises from which the dealer receives or to which the dealer ships livestock.

Animal Truckers

This rule does all of the following:

- Eliminates the current requirement for animal truckers to pass a test before being initially licensed by DATCP.
- Eliminates the current license exemption for animal truckers that haul animals for other persons fewer than 6 times per license year.
- Requires animal truckers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal truckers to record the livestock premises code, if any, of each premises from which the trucker receives or to which the trucker ships livestock.

Slaughter Establishments

Under current rules, no person may remove livestock from a slaughter establishment after the animal has been weighed and purchased by the slaughter establishment. Under this rule, no person may remove livestock after they have been off-loaded at the slaughter establishment.

Disease Indemnities

Under current law, DATCP may condemn and order the destruction of animals to prevent the spread of serious diseases. In some cases, the owner of the diseased animals may be eligible for state indemnity payments. Under this rule, if the owner of a diseased animal is eligible for state indemnities, and if the animal is of a type not frequently sold at public auction, DATCP must appoint a knowledgeable independent appraiser to determine the value of the animal. The appraiser must determine appraised value based on the animal's size, species, sex, and grade or quality, and by relevant information related to prevailing market prices for animals of that size, species, sex, and grade or quality.

Prohibited Practices

This rule prohibits any person from selling, moving or disposing of an animal before the result of a disease test of that animal is known, if that disease test is required by law prior to the sale, movement or disposition.

Livestock Premises Registration

Registration Renewal Period

Under current law, a person keeping livestock in this state must register each location where those livestock are kept. “Livestock” includes bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, captive game birds, camelids, ratites and fish. Under current DATCP rules, a person must renew a livestock premises registration every year. This rule extends the current renewal period. Under this rule, a person will only be required to renew once every 3 years.

Who May Register

Under current rules, if *person A* feeds and cares for livestock owned by *person B*, on premises owned by *person C*, any of those persons may register the premises (the others need not). However, if the premises are part of an operation (such a dairy farm) that DATCP licenses under other applicable law, current rules provide that *only the license holder* may register the premises. This rule eliminates that restriction, so that any eligible person (including, but not limited to, the license holder) may register the premises. This rule retains a current rule provision which allows an applicant for an initial license (such as an initial dairy farm license) to register the livestock premises as part of that initial license application.

DATCP May Register Premises if Operator Does Not

This rule authorizes DATCP to register livestock premises, or renew a premises registration, on behalf of an operator that fails to do so. For example, DATCP could register livestock premises on behalf of operators who may have religious objections to registering themselves. Before DATCP registers any premises on behalf of any person, DATCP must notify that person of the person’s duty to register and of DATCP’s intent to register on that person’s behalf. Registration by DATCP does not relieve the person of any penalties or liability that may apply as a result of the person’s failure to register the livestock premises.

Other Changes

This rule makes a number of other minor drafting changes designed to update, clarify and correct current rules.

Fiscal Impact

This rule will not have a significant state or local fiscal impact, except that the fish health provisions of this rule will have the following impact on DNR and DATCP (a complete fiscal estimate is attached):

Impact on DNR

This rule will have a fiscal impact on DNR fish hatchery and stocking operations. Under this rule, all VHS-susceptible fish and fish eggs (including VHS-susceptible bait species) must be tested for VHS before being stocked to Wisconsin public waters if they were either (1) collected from a wild source within the preceding 12 months or (2) kept on a fish farm that received fish or fish eggs of *any* species collected from a wild source within the preceding 12 months.

DNR annually registers approximately 100 fish farms with DATCP. Thirteen of those fish farms are state-owned fish hatcheries. The remainder are registered by DNR but owned by private DNR “cooperators” (as registrant, DNR assumes legal responsibility for compliance with fish health rules). DATCP estimates that DNR will need to conduct VHS tests on a combined total of approximately 120 lots of fish per year (including fish at state hatcheries and “cooperator” fish farms registered by DNR).

Assuming an average test cost of \$500 per lot, the total cost to DNR would be approximately \$60,000 per year. However, DNR has already implemented a number of internal controls and VHS testing protocols, so the added cost of this rule will be less than \$60,000. DNR costs may increase if USDA finds that additional fish species are susceptible to VHS (the amount of the increase will depend on which fish species are found to be susceptible).

Impact on DATCP

DATCP will incur added costs to administer and enforce the fish health testing requirements under this rule. DATCP will need *at least* 2.0 FTE staff to review and process a large volume of fish health certificates in a timely manner; to train fish health inspectors to collect samples for VHS testing; to provide compliance information and respond to industry inquiries; to conduct inspections and monitor compliance; to conduct investigations of possible law violations; and to initiate enforcement actions if necessary.

The 2.0 FTE staff will have a combined total cost of at least \$120,000 per year, including salary, fringe benefits and support costs. DATCP will attempt to absorb these costs in the short term by shifting staff from other important disease control responsibilities, but DATCP will not be able to do so indefinitely without putting other livestock sectors at unacceptable risk. DATCP will seek federal grant funds to cover some of the costs, but federal funding is not guaranteed.

Business Impact

Aquaculture Industry

This rule creates new regulations to control viral hemorrhagic septicemia (VHS) in fish, and simplifies registration of fish farms. This rule will affect fish farm operators and bait dealers. This rule will also affect the Wisconsin Department of Natural Resources (DNR). The effect on DNR is described in the fiscal estimate for this rule.

This rule will benefit the aquaculture industry by helping to control the spread of VHS, a very serious disease of fish. This rule will also benefit fish farm operators, by simplifying current fish farm registration requirements (operators will be able to register multiple fish farms on a single registration form). However, this rule may add costs or limit operations for some fish farmers and bait dealers, as described below.

Fish Farm Operators

DATCP estimates that this rule will affect 30-40 private fish farms, not counting DNR “cooperator” fish farms registered by DNR. Many of the affected fish farms are “small businesses,” and many of them will be substantially affected by this rule. VHS testing requirements may force some fish farm operators to curtail all or part of their operations. However, some fish farms already conduct VHS tests in order to meet federal requirements for interstate movement of fish.

Fish farm operators may incur added testing requirements under this rule if they keep VHS-susceptible fish or fish eggs that were either (1) collected from any wild source within the preceding 12 months, or (2) kept on a fish farm that received fish or fish eggs (of *any* species) collected from any wild source within the preceding 12 months. Operators must test those VHS-susceptible fish or fish eggs before they distribute them for bait, for stocking to Wisconsin public waters, or for delivery to other fish farms (other than those registered by the same operator).

A veterinarian or other qualified fish health inspector must certify that the fish or fish eggs are VHS-free, based on tests using approved methods. VHS tests must be conducted on a statistically representative sample of fish drawn from the tested species or farm. The average cost to test and certify a single lot of fish is approximately \$500 (actual costs vary depending on test method, number of fish in the lot, number of fish species in the lot, etc.). A single fish farm might need to test from 1-30 lots per year, depending on the source and species of the fish, the number of separate fish lots kept on the fish farm, and purposes for which the fish are kept and distributed.

DATCP estimates that approximately 30-40 private fish farm operators will need to conduct VHS tests, and that they will conduct those tests on a combined total of approximately 40 lots of fish per year. Assuming an average cost of \$500 per test per lot, the *combined total cost to all affected private fish farm operators* will be approximately \$20,000 per year.

However, some of those affected fish farmers are already performing VHS tests in order to meet federal requirements for shipping fish in interstate commerce, so the net impact of this rule may be less than \$20,000. Fish farm costs may increase if USDA finds that additional fish species are susceptible to VHS (the amount of the increase will depend on which fish species are found to be susceptible).

Bait Dealers

Wisconsin bait dealers are currently licensed by DNR. This rule will affect licensed bait dealers in 2 ways:

- If bait dealers buy VHS-susceptible bait species that originate from wild sources, their purchase costs may reflect the seller's added cost of VHS testing under this rule.
- If bait dealers collect VHS-susceptible bait species from wild sources, they will need to conduct VHS tests before reselling or distributing the bait. They will also need to withhold the bait from distribution for at least 4 weeks pending the completion of VHS tests. That will add costs, and may not be practically feasible for affected bait dealers.

This rule applies only to bait species that are known to be susceptible to VHS. Of the major bait species in Wisconsin (fathead minnow, white sucker, golden shiner and emerald shiner), only one species (emerald shiner) is currently known to be susceptible to VHS. Emerald shiners are obtained exclusively by wild harvesting, while other major bait species can be hatched and raised on farms. At this time, DATCP estimates that emerald shiners represent less than 10% of the overall bait market in Wisconsin (the market for wild-harvested emerald shiners has already diminished as a result of federal VHS testing requirements for emerald shiners moved in interstate commerce).

DATCP estimates that approximately 25 Wisconsin bait dealers are currently harvesting emerald shiners from the wild. DATCP estimates that each of those bait dealers would need to test an average of 6 lots of wild-harvested emerald shiners each year, before distributing the emerald shiners for sale. Assuming an average cost of \$500 per test lot, the average annual cost for an individual bait dealer would be about \$3,000 per year, and the combined total cost to all 25 of those bait dealers would be about \$75,000 per year. That figure does *not* include added costs to hold the emerald shiners for 4 weeks while testing is completed. It is extremely difficult to hold emerald shiners for extended periods, so it may not even be possible for most bait dealers to hold them for the required 4 weeks.

The difficulty of holding emerald shiners for 4 weeks, combined with the added cost of testing emerald shiners, may drive many bait dealers out of the business of harvesting wild emerald shiners for sale as bait. However, those bait dealers may still be able to harvest and sell other types of bait that are not affected by this rule.

Bait dealers that are not currently harvesting emerald shiners will not be substantially affected by this rule unless USDA finds that additional bait species are susceptible to VHS. If USDA finds that other major bait species are susceptible to VHS, this rule could have a more dramatic impact on bait dealers. The impact will depend on the species that are affected.

Farm-Raised Deer Keepers

This rule changes current rules related to farm-raised deer. This rule makes all of the following changes:

- Requires veterinarians who perform chronic wasting disease (CWD) tests to report test results to DATCP.
- Changes the annual expiration date for farm-raised deer herd registrations, from December 31 to March 31.
- Clarifies that a person may keep farm-raised deer at 2 or more locations identified in a single herd registration certificate, subject to specified conditions.
- Clarifies that separately-registered farm-raised deer herds may be kept at the *same location* (even if they are owned by different persons), subject to specified conditions.
- Modifies current CWD testing requirements. Under current rules, a test must be performed on every farm-raised deer at least *16 months old* that dies in captivity, or is killed or sent to slaughter (the test sample must be sent to an approved laboratory within 10 days after it is collected). Under this rule, testing is required for deer at least *8 months old* that meet the same criteria. Under this rule, a test sample must be collected within 10 days after the animal dies, or is killed or slaughtered (or within 10 days after the death is first discovered). Under this rule as under the current rules, the test sample must be sent to an approved laboratory within 10 days after it is collected.
- Clarifies current rules related to DATCP condemnation of diseased or suspect farm-raised deer. Under this rule, a condemnation order may specify a reasonable compliance deadline, may direct appropriate testing and disposition of carcasses, and may require the herd owner or custodian to enter into a “premises plan” as a condition to the payment of state indemnities.
- Clarifies annual herd census requirements under Wisconsin’s chronic wasting disease herd status program. Under this rule, an annual herd census must report apparent escapes, and must explain and account for changes in herd population since the last census.
- Clarifies that a person applying to register a herd of white-tailed deer with DATCP must include, with the registration application, a copy of a valid DNR fence certificate (currently required by law) for each registered location.

- Clarifies that a person applying for a 10-year hunting preserve certificate from DATCP must include, in the application, an estimate of the farm-raised deer population on the hunting preserve premises (by species, age and sex). The application must also include the identification numbers of any farm-raised deer on the hunting preserve that bear identification numbers. Under this rule, all non-natural additions to a hunting preserve must have 2 forms of official individual identification, one visible and one implanted.
- Extends the term of a brucellosis-free herd certification, from 2 years to 3 years, so that it is consistent with the term of a tuberculosis-free herd certification. That will allow herd owners to conduct simultaneous tests for both diseases.
- Allows DATCP to extend the 15-day slaughter deadline for tuberculosis reactors by up to 30 days (current rules allow only a 15-day extension).
- Modifies current tuberculosis regulations for imports of farm-raised deer, to make them consistent with federal standards for interstate movement. This rule also eliminates current requirements for post-import testing.
- Clarifies current rules related to movement of farm-raised deer between separately registered herds in this state.

Most of the changes in this rule are designed to clarify current rules, or to make current rules consistent with federal rules. The rule changes will have minimal impact on most farm-raised deer keepers, and will reduce costs and facilitate deer farm operations in many cases. Clear and effective rules will help prevent and control chronic wasting disease and other diseases, for the benefit of the entire farm-raised deer industry.

This rule will require farm-raised deer keepers to perform chronic wasting disease tests on farm-raised deer that die between the ages of 8 months and 16 months (current rules only require testing of animals that die at age 16 months or older). The reduction in test age may require some farm-raised deer keepers to test a slightly larger number of farm-raised deer. The United States Department of Agriculture (USDA) currently pays laboratory testing costs, but farm-raised deer keepers must pay at least part of the cost to have test samples collected by a veterinarian. The sample collection cost ranges from \$15/head to \$140/head depending on the availability of a veterinarian. In recent years, USDA has paid the first \$50 of this cost (future funding is uncertain).

This rule requires additional (implanted) ID tags for farm-raised deer entering hunting preserves, to facilitate disease traceback. The cost of the additional tag is estimated at less than \$5 per farm-raised deer. In recent years, USDA has paid for implanted ID tags (future funding is uncertain).

Cattle and Goat Producers

Under current rules, Johne's disease test samples must normally be collected by accredited veterinarians. This rule allows Dairy Herd Improvement Technicians to collect milk samples that are used as Johne's disease test samples. That will make it easier, and less costly, for dairy farmers to participate in the Johne's disease herd testing and management program.

Current rules exempt imported bovine animals (cattle and bison) from the requirement of a pre-import tuberculosis test if the animals originate from a state that USDA has classified as "TB-free" if that state accepts Wisconsin animals without a TB test. Under this rule, the exemption does not apply if the state of origin has a confirmed TB-positive herd, until that herd is depopulated and all epidemiologically linked herds have tested negative for TB. This rule also prohibits imports of cattle originating from Mexico, except directly to slaughter. This rule will help prevent imports of diseased cattle, and provide important protection for Wisconsin's livestock industry. It will not have significant adverse effects on the livestock industry.

Poultry Producers

Under current rules, a poultry flock owner may voluntarily enroll in the National Poultry Improvement Plan (enrollment facilitates the sale and movement of poultry). Under this rule, a flock owner may not enroll unless the owner has registered flock premises under Wisconsin's livestock premises identification program. This will not have a significant impact on flock owners, because registration is already required by law.

Current rules regulate poultry imports to Wisconsin. This rule modifies poultry import standards, to provide more flexible options for poultry importers. This rule will have no adverse impact on poultry importers.

Animal Markets, Dealers and Truckers

This rule does all of the following:

- Eliminates the current requirement for animal market operators, animal dealers and animal truckers to pass a test before being initially licensed by DATCP.
- Requires animal market operators, animal dealers and animal truckers to transport and handle animals in a safe and humane manner.
- Clarifies animal transport vehicle registration requirements.
- Requires animal market operators, animal dealers and animal truckers to record the official individual identification of goats that bear official individual identification.

- Requires animal market operators, animal dealers and animal truckers to record the livestock premises code, if any, of each premises from which the operator receives or to which the operator ships livestock.
- Requires operators of federally-approved livestock import markets to disclose, to livestock recipients, the state of origin of livestock leaving the import market.

This rule will simplify licensing of animal market operators, dealers and truckers, by eliminating current testing requirements. This rule will require some animal market operators, dealers and truckers to make minor changes in recordkeeping and operating procedures. Recordkeeping changes will improve disease control and traceback capability, for the benefit of the entire livestock industry. This rule will not have any significant adverse effect on animal market operators, dealers or truckers.

Persons Keeping Livestock; Premises Registration

Under current law, a person who keeps livestock at a location in this state is required to register that location with DATCP. Under current rules, the person must renew the registration annually. If the person holds another license from the department, the person must register as part of the license application process.

This rule extends the renewal period from one year to 3 years. Under this rule, a license holder may register as part of the license application process but is not required to do so (the person may register separately). Under this rule, DATCP may register known livestock premises if the livestock operator fails to do so (because the operator has religious objections, for example). These changes will make it easier and more convenient for livestock operators to comply with premises registration requirements. This rule will have no adverse impact on the livestock industry.

Slaughter Establishments

This rule clarifies the current prohibition against removing live animals from slaughter establishments. This rule will not have any adverse effect on slaughter establishments.

Disease Indemnities

This rule clarifies the procedures that DATCP will use to determine the appraised value of animals condemned for disease control purposes, in order to determine the amount of state indemnity payments. This rule will not have any significant adverse effect on livestock operators, and will clarify indemnity procedures.

Accommodation for Small Business

Overall, this rule improves disease control and prevention for the benefit of the entire livestock and aquaculture industry. In many cases, this rule will actually improve flexibility and reduce costs for individual businesses, including small businesses. Overall, this rule has few adverse impacts on small business.

This rule may have some adverse effects on some small businesses (especially bait dealers that harvest emerald shiners from wild sources for sale as bait). If USDA finds that additional fish or bait fish species are susceptible to VHS, this rule may have a more dramatic impact on fish farm operators or bait dealers, or both. Many of the affected entities will be small businesses.

This rule is needed to protect the health of Wisconsin livestock industries, including the aquaculture and farm-raised deer industries. It is also needed to protect the health of wild animals, including fish. Effective disease control is important for all the people of the state, and for the affected livestock industries.

Although this rule may have some adverse effects on some small livestock businesses, those effects are generally minimal and are outweighed by the need to prevent and control the spread of serious diseases that could destroy entire industries. DATCP has not exempted small businesses, because the risk of disease spread is unrelated to business size.

Overall, this rule will benefit Wisconsin livestock industries by improving control of serious diseases. This rule will also increase flexibility and reduce costs for many individual businesses. This rule may have some adverse effects on some individual businesses, those effects are generally limited and are outweighed by the need to prevent and control the spread of serious diseases that could destroy entire industries.

Federal and Surrounding State Programs

Federal Programs

DATCP administers animal disease control programs in cooperation with USDA. USDA has well-established control programs for historically important diseases such as tuberculosis and brucellosis. Federal rules for these programs spell out standards for disease testing, disease control, international and interstate movement of animals, certifying the disease status of states, and certifying the disease status of individual herds.

USDA operates national veterinary diagnostic laboratories, and coordinates multi-state responses to major disease epidemics. USDA exercises disease control authority, including quarantine and condemnation authority, and provides funding for indemnity payments to certain owners of condemned animals. USDA operates state and regional offices, and coordinates field operations with states.

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

USDA may provide grant funding, regulatory incentives, or other assistance in support of state programs and regulation. For example, USDA provides funding for voluntary Johne's disease testing and herd management, based on federal program standards.

States have independent authority to regulate animal health and movement, including imports from other states. However, states strive for reasonable consistency, based on standards spelled out in federal regulations. Where well-established federal standards and procedures exist, state disease control programs typically incorporate those federal standards. However, states may independently address new and emerging disease issues, especially if those issues have a state or regional focus and are not a priority for USDA.

Surrounding State Programs

General

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

Aquaculture

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

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

Johne's Disease

All of the surrounding states (Illinois, Michigan, Iowa and Minnesota) have adopted a voluntary Johne's disease testing and herd management program, based on the federal program. Wisconsin has a similar program, which it is updating under this rule.

Standards Incorporated by Reference

Pursuant to s. 227.21, Stats., DATCP will request permission from the attorney general and revisor of statutes to incorporate the following standards by reference in this rule, without reproducing the standards in full in this rule:

- *Program standards for the national voluntary Johne's disease control program, United States department of agriculture, animal and plant health inspection service, publication number 91-45-016 (June 2006).*

DATCP Contact

Questions and comments related to this rule may be directed to:

Melissa Mace
Department of Agriculture, Trade and Consumer Protection
Animal Health Division
P.O. Box 8911
Madison, WI 53708-8911
Telephone (608) 224-4883
E-Mail: hearingcommentsAH@datcp.state.wi.us

- 1 **SECTION 1:** ATCP 10.01(31m) is created to read:
2 10.01(31m) "DHIA Technician" means a person approved by a service affiliate
3 of the Dairy Herd Improvement Association to certify dairy farm production information.
4 **SECTION 2:** ATCP 10.01(39) is amended to read:
5 ATCP 10.01(39) "Exotic ruminant" means a ruminant not indigenous to
6 Wisconsin. "Exotic ruminant" does not include domestic bovine animals, bison, cervids,
7 alpacas or llamas.
8 **SECTION 3:** ATCP 10.01(59) is amended to read:

1 ATCP 10.01(59) “Johne’s disease national program standards” means the
2 program standards for the national voluntary Johne’s disease control program, as
3 published in federal bureau publication 91-45-016 (~~November 2005~~ June 2006).

4 **SECTION 4.** ATCP 10.01(63m) is created to read:

5 ATCP 10.01(63m) “M-branded” means branded with the letter “M” to signify
6 imported from Mexico.

7 **SECTION 5.** ATCP 10.04(1)(title) and (a)(intro.) are amended to read:

8 ATCP 10.04(1)(title) ~~VETERINARIAN TO REPORT~~ DUTY TO REPORT TEST RESULTS.

9 (a)(intro.) A veterinarian, qualified fish health inspector or DHIA technician who
10 tests an animal in this state for any of the following diseases shall report the test result to
11 the department, regardless of whether the test result is positive or negative:

12 **SECTION 6.** ATCP 10.04(1)(a)5. and 6. are created to read:

13 ATCP 10.04(1)(a)5. Chronic wasting disease.

14 6. Viral hemorrhagic septicemia.

15 **SECTION 7.** ATCP 10.07(4)(c) is repealed and recreated to read:

16 ATCP 10.07(4)(c) An operator of a federally approved livestock import market
17 may not do any of the following:

18 1. Release any animal from that market to a Wisconsin destination unless the
19 animal meets all applicable import requirements under this chapter.

20 2. Fail to disclose, to the recipient of any animal released from that market, the
21 animal’s state of origin.

22 **SECTION 8.** ATCP 10.08(4) and (5) are amended to read:

1 ATCP 10.08(4) REMOVING LIVESTOCK FROM SLAUGHTER ESTABLISHMENT. No
2 person may remove any livestock animal from a slaughtering establishment after the
3 animal has been ~~weighed and purchased by~~ off-loaded at the slaughtering establishment
4 unless the animal is removed under a special permit issued by the state veterinarian. The
5 state veterinarian shall grant or deny a permit application within 5 business days after he
6 or she receives a complete application.

7 (5) RELEASE OF DISEASED WILD ANIMAL. A person who knows or has reason to
8 know that a captive wild animal has been infected with or exposed to a disease identified
9 in s. ATCP ~~10.02~~ 10.03 may not release the animal to the wild unless a certified
10 veterinarian finds that the animal is free of the disease at the time of release. The
11 veterinarian shall make the finding on a certificate of veterinary inspection that is filed
12 with the department.

13 **SECTION 9.** ATCP 10.09 is created to read:

14 **ATCP 10.09 Appraised value of condemned animals.** If the owner of an
15 animal destroyed under s. 95.21(4)(b), 95.23(1m), 95.25, 95.26, 95.27 or 95.31(3) or (4),
16 Stats., is eligible for a state indemnity for that animal under ch. 95, Stats., and if the
17 animal is of a type not frequently sold at public auction, the department shall appoint a
18 knowledgeable independent appraiser to determine the appraised value of the animal.
19 The appraiser shall determine the appraised value based on the animal's size, species, and
20 grade or quality, and by relevant information related to prevailing market prices for
21 animals of that size, species, sex, and grade or quality. The appraiser may, as
22 appropriate, conduct market surveys to obtain relevant price information.

23 **SECTION 10.** ATCP 10.11(5)(a)1. is amended to read:

1 ATCP 10.11(5)(a)1. Have the animal identified as a reactor, and shipped to a
2 slaughtering establishment for slaughter, according to the brucellosis uniform methods
3 and rules. The ~~operator~~ owner shall obtain a department permit under s. ATCP 10.08 (3)
4 for the slaughter shipment.

5 **SECTION 11.** ATCP 10.15(1)(d) is created to read:

6
7 ATCP 10.15(1)(d) A DHIA technician if the Johne's disease test sample is a milk
8 sample.

9 **SECTION 12.** ATCP 10.15(6) is amended to read:

10 ATCP 10.15(6) FOLLOW-UP TEST. Within 45 days after an animal tests positive
11 on a test under sub. (3)(a), ~~the veterinarian who submitted the sample for testing~~ a person
12 authorized under sub. (1) shall collect and submit another sample for testing by a
13 different test method under sub. (3). The department may, for good cause, extend the
14 retesting deadline under this subsection.

15 **SECTION 13.** ATCP 10.19(2)(b) and (3)(a) are amended to read:

16 ATCP 10.19(2)(b) Claims for costs incurred in any calendar year shall be
17 postmarked or delivered to the department on or before February 1 of the following
18 calendar year, except that the department may consider claims filed after February 1 but
19 before March 1. A herd owner may file multiple claims for costs incurred in any calendar
20 year, provided that the claims are not duplicative.

21 (3)(a) The department shall first pay eligible claims, for costs incurred in any
22 calendar year, which are received or postmarked on or before February 1 of the next
23 calendar year. If the sum of those eligible claims exceeds the amount available in the
24 relevant appropriation account, the department may pay those eligible claims pro rata.

1 **SECTION 14.** ATCP 10.22(5)(b)4. is repealed and recreated to read:

2 ATCP 10.22(5)(b)4. An animal originating from an accredited tuberculosis-free
3 state or nation that accepts bovine animals from this state without a prior tuberculosis
4 test, unless one of the following applies:

5 a. The state veterinarian requires a tuberculosis test under s. ATCP 10.07(1)(b).

6 b. The state of origin has a confirmed tuberculosis positive herd, in which case a
7 tuberculosis test is required under par. (a) until that herd is depopulated and all
8 epidemiologically-linked herds have tested negative for tuberculosis.

9 **SECTION 15.** ATCP 10.22(7m) is created to read:

10 ATCP 10.22(7m) M-BRANDED BOVINES; IMPORT RESTRICTED. No person may
11 import an M-branded bovine into this state except directly to a slaughter facility.

12 **SECTION 16.** ATCP 10.22(9)(b) is amended to read:

13 ATCP 10.22(9)(b) *Permit application.* To obtain an approved import feedlot
14 permit, a feedlot operator shall submit an application on a form provided by the
15 department. The application shall identify the location of the feedlot by county, ~~township~~
16 town and section, and shall include other relevant information required by the
17 department. The application shall include a nonrefundable fee of \$75. The department
18 shall grant or deny a permit application within 30 days after a complete application is
19 filed with the department.

20 **SECTION 17.** ATCP 10.37(1)(a)2. is amended to read:

21 ATCP 10.37(1)(a)2. The department issues a permit under s. ATCP 10.07 (2)
22 authorizing the import shipment ~~and a copy of the permit.~~

23 **SECTION 18.** ATCP 10.40(1)(d)1. and (4)(b)1. are amended to read:

1 ATCP 10.40(1)(d)1. They have individually tested negative for pullorum, fowl
2 typhoid and, in the case of turkeys, *Mycoplasma gallisepticum*, within the preceding 90
3 days ~~and prior to any change of ownership, and there has been no change of ownership~~
4 since the completion of testing. Testing for purposes of a fair or livestock exhibition
5 shall be completed before the birds arrive at the fair or livestock exhibition.

6 (4)(b)1. An individual who draws blood samples for ~~laboratory~~ testing shall
7 identify each bird with official individual identification, or with another identification
8 number that uniquely identifies that bird.

9 **SECTION 19.** ATCP 10.41(2) and (6) are amended to read:

10 ATCP 10.41(2) ENROLLMENT APPLICATION. A flock owner shall apply for
11 enrollment under sub. (1) on a form provided by the department. The application shall
12 include the test results required under sub. (3), ~~and~~ the fee required under sub. ~~(4)~~ (5), ~~and~~
13 the livestock premises code of the flock premises. The department shall grant or deny an
14 enrollment application within 30 days after the department receives a complete
15 application.

16 (6) TESTING. Testing under this section, including test sample collection, shall
17 comply with applicable requirements in s. ATCP ~~10.40(3)~~ 10.40(4).

18 **SECTION 20.** ATCP 10.42(1)(a) is repealed and recreated to read:

19 ATCP 10.42(1)(a) No live poultry, poultry eggs for hatching, farm-raised game
20 birds or farm-raised game bird eggs for hatching may be imported to this state unless
21 accompanied by a valid certificate of veterinary inspection that certifies at least one of the
22 following:

1 1. They originate from flocks that are enrolled in the national poultry
2 improvement plan, or a plan that the department determines to be equivalent.

3 2. They originate from flocks that are classified as “U.S. pullorum-typhoid clean”
4 and, in the case of turkeys and turkey eggs, “Mycoplasma gallisepticum clean” under the
5 national poultry improvement plan or a plan that the department determines to be
6 equivalent.

7 3. All individual test-eligible birds have tested negative for pullorum, fowl
8 typhoid and, in the case of turkeys, Mycoplasma gallisepticum within 90 days prior to
9 import. Tested birds shall bear official individual identification, and there shall be no
10 change of ownership between the test sampling date and the import date.

11 **SECTION 21.** ATCP 10.46(title) and (1) are repealed and recreated to read:

12 **ATCP 10.46 Farm-raised deer herds; registration.** (1) REGISTRATION
13 CERTIFICATE REQUIRED. (a) Except as provided in par. (e), no person may keep farm-
14 raised deer at any location in this state unless the department has issued a current annual
15 farm-raised deer herd registration certificate authorizing that person to keep farm-raised
16 deer at that location. A herd registration certificate is not transferable between persons or
17 locations, except as authorized under s. 95.55(3c)(b), Stats.

18 (b) A herd registration certificate under par. (a) may authorize the registrant to
19 keep a herd of farm-raised deer at 2 or more locations identified in the registration
20 certificate, subject to sub. (4).

21 (c) Farm-raised deer from 2 or more herds covered by separate herd registration
22 certificates may be kept at the same location, subject to sub. (5).

1 (d) A herd registration certificate under par. (a) shall bear one or more livestock
2 premises codes that, together, cover all of the herd locations identified in the registration
3 certificate.

4 **NOTE:** A single livestock premises code may cover 2 or more herd locations (see
5 s. ATCP 17.02(4)(d) and (e)).
6

7 (e) Paragraph (a) does not apply to the operator of an establishment, licensed
8 under s. 97.42, Stats., at which that operator keeps live farm-raised deer for not more than
9 72 hours before slaughtering them.

10 **SECTION 22.** ATCP 10.46(3) is amended to read:

11 ATCP 10.46(3) REGISTRATION CERTIFICATE EXPIRES. A herd registration
12 certificate under sub. (1) expires on March 15 ~~December 31~~ of each year. The holder of a
13 herd registration certificate may renew that certificate by submitting an annual renewal
14 application under sub. (6).

15 **SECTION 23.** ATCP 10.46(4) and (5) are repealed and recreated to read:

16 ATCP 10.46(4) SINGLE REGISTERED HERD KEPT AT 2 OR MORE LOCATIONS. The
17 following conditions apply whenever a herd of farm-raised deer is kept at 2 or more
18 locations identified in the herd registration certificate under sub. (1):

19 (a) The entire herd, including all herd locations, shall be actively enrolled in the
20 chronic wasting disease status program under s. ATCP 10.53.

21 (b) The registrant may move farm-raised deer between locations identified in the
22 herd registration certificate without a certificate of veterinary inspection under s. ATCP
23 10.56(1) if all of the following apply:

24 1. Those farm-raised deer are identified with official individual identification.

1 2. The registrant keeps a record of the movement. The record shall include the
2 official individual identification of each farm-raised deer that is moved; the species, age
3 and sex of the farm-raised deer; the date of movement; and the herd locations from and to
4 which the farm-raised deer was moved.

5 (c) All farm-raised deer covered by the registration certificate shall be treated as
6 members of a single herd, for purposes of disease control and movement.

7 **NOTE:** For example, under par. (c), if a certificate of veterinary inspection is
8 required under s. ATCP 10.56 to ship farm-raised deer from any of the
9 herd locations covered by a herd registration certificate, the herd health
10 certifications required under s. ATCP 10.56 must encompass *all* of the
11 herd locations covered by the herd registration certificate. Likewise, if
12 disease is found at any of the locations covered by a herd registration
13 certificate, the department may quarantine and condemn all of the farm-
14 raised deer at *all* of the locations covered by the registration certificate.
15

16 (5) SEPARATELY REGISTERED HERDS KEPT AT SAME LOCATION. The following
17 conditions apply whenever any farm-raised deer from 2 or more herds covered by
18 separate registration certificates under sub. (1) are kept at the same location:

19 (a) If the herds are medically-separated under par. (c), each herd is considered a
20 separate herd for purposes of disease control, movement, and enrollment in the chronic
21 wasting disease status program under s. ATCP 10.53. Farm-raised deer moved between
22 any of the medically-separated herds shall be accompanied by a certificate of veterinary
23 inspection under s. ATCP 10.56(1), and registrants shall keep a record under sub. (10)(a)
24 related to each movement.

25 (b) If the herds are not medically-separated under par. (c):

26 1. All of the farm-raised deer kept at all of the herd locations identified in all of
27 the herd registration certificates shall be collectively treated as a single herd for purposes
28 of disease control and movement, regardless of whether the deer are under common

1 ownership or control or are part of the same registered herd. This subdivision does not
2 authorize a violation of sub. (1).

3 **NOTE:** For example, under par. (b)1., if a certificate of veterinary inspection is
4 required under s. ATCP 10.56 to ship farm-raised deer from *any* of the
5 herd locations identified in *any* of the herd registration certificates, the
6 herd health certifications required under s. ATCP 10.56 must encompass
7 *all* of the farm-raised deer kept at *all* of the herd locations, regardless of
8 whether those farm-raised deer are owned by the same person or are part
9 of the same registered herd. Likewise, if disease is found at *any* of the
10 locations covered by *any* of the herd registration certificates, the
11 department may quarantine and condemn *all* of the farm-raised deer at *all*
12 of the locations identified in *all* of the registration certificates.
13

14 2. Farm-raised deer moved between any of the herd locations identified in any of
15 the herd registration certificates shall be identified with official individual identification.

16 3. All of the herds, including all herd locations, shall be actively enrolled in the
17 chronic wasting disease status program under s. ATCP 10.53.

18 (c) Herds are medically-separated, for purposes of par. (a), if all of the following
19 apply:

20 1. The herds are at all times separated by a solid or double fence that complies
21 with NR 16.45 or, in the case of farm-raised deer other than white-tailed deer, by a
22 functionally equivalent barrier approved by DATCP. DATCP may approve a
23 functionally equivalent barrier that effectively precludes transmission of chronic wasting
24 disease, tuberculosis, brucellosis and other relevant communicable diseases between the
25 herds.

26 2. Bio-security procedures, including procedures to prevent the commingling of
27 farm-raised deer between the herds, effectively prevent disease transmission between the
28 herds.

1 3. The department finds that the medical separation appears to comply with
2 subds. 1. and 2., based on an inspection under par. (d).

3 (d) Before registering any herd to be kept at the same location as another,
4 medically-separated registered herd, the department shall inspect the location to
5 determine whether the herds are in fact medically-separated. For each inspection under
6 this subdivision, the registrant shall pay the fee required under sub. (7)(b). No inspection
7 is required for the renewal of an existing herd registration if the department has
8 previously inspected the herd premises under this paragraph.

9 **SECTION 24.** ATCP 10.46(6)(c) is amended to read:

10 ATCP 10.46(6)(c) The location or locations at which the farm-raised deer will be
11 kept, including the county, town, section and fire number assigned to ~~that~~ each location.
12 The application shall disclose whether farm-raised deer from any other registered herd
13 will be kept at any of the same locations and, if so, whether the herds will be medically-
14 separated at those locations.

15 **SECTION 25.** ATCP 10.46(6)(em) is created to read:

16 ATCP 10.46(6)(em) A copy of a valid fence certificate issued by the department
17 of natural resources under s. 90.21, Stats., for each location at which white-tailed deer
18 will be kept pursuant to the registration certificate.

19 **SECTION 26.** ATCP 10.46(7)(b) and (c), (8), (9)(b) and (11)(c) are amended to
20 read:

21 ATCP 10.46(7)(b) A person who applies to register a herd at the same location
22 where another herd is registered shall pay a nonrefundable fee of \$150 for each day
23 needed to complete an inspection required under sub. ~~(4)(e)~~ (5)(d).

1 (7)(c) An applicant shall pay a registration fee surcharge of \$100 if the
2 department determines that, within 365 days prior to submitting the registration
3 application, the applicant kept farm-raised deer at any location without a required
4 registration certificate that identifies that location. In addition to the surcharge, the
5 applicant shall pay the fee due for the year in which the applicant failed to obtain the
6 required registration certificate.

7 (8) ACTION ON REGISTRATION APPLICATION. The department shall grant or deny
8 an application under sub. (6) within 30 days after the department receives a complete
9 application, except that the department shall grant or deny the application within 60 days
10 if the department is required to perform an inspection under sub. ~~(5)(e)~~ (5)(d).

11 (9)(b) Violating ch. 95, Stats., ~~or this chapter,~~ or department of natural resources
12 fencing rules under s. NR 16.45.

13 (11)(c) Move a live farm-raised deer or any portion of a farm-raised deer carcass
14 from the premises at which it has been kept unless the farm-raised deer has an official
15 individual identification or the farm-raised deer carcass complies with sub. (13).

16 **SECTION 27.** ATCP 10.47(3)(b)5. and 6. are created to read:

17 ATCP 10.47(3)(b)5. An estimate of the farm-raised deer population on the
18 hunting preserve premises, by species, age and sex.

19 (b)6. A list showing, for each farm-raised deer on the hunting preserve premises
20 that bears any attached or implanted identification, each type of identification and each
21 associated identification number that the farm-raised deer bears.

22 **SECTION 28.** ATCP 10.47(4m) and (note) are created to read:

1 ATCP 10.47(4m) OFFICIAL INDIVIDUAL IDENTIFICATION. (a) All non-natural
2 additions to a hunting preserve premises shall have 2 forms of official individual
3 identification, one visible and one implanted.

4 **NOTE:** See s. ATCP 10.01(71).

5 **SECTION 29.** ATCP 10.47(7)(b)6. is amended to read:

6 ATCP 10.47(7)(b)6. ~~The~~ All official individual identification ~~of attached to or~~
7 implanted in the carcass, or the and the number of any dead tag ~~number~~ attached to the
8 carcass under s. ATCP 10.46(13), if the carcass leaves the premises. ~~If the carcass has~~
9 ~~both an official individual identification and a dead tag, the record shall include both all~~
10 ~~the numbers.~~

11 **SECTION 30.** ATCP 10.48(6)(c) is amended to read:

12
13 ATCP 10.48(6)(c) The department may for good cause extend a deadline under
14 par. (b), but may not extend a deadline under par. (b)1. by more than ~~15~~ 30 additional
15 days.

16 **SECTION 31.** ATCP 10.49(4) is created to read:

17 ATCP 10.49(4) CERTIFICATION TRANSFERRED, OR BASED ON SOURCE HERD
18 CERTIFICATION. The department may not transfer a herd certification under sub. (1) to
19 another herd or herd registrant, or certify a herd based solely on prior certification of
20 another herd from which the herd received its farm-raised deer, unless all of the following
21 apply:

22 (a) The herd registrant applies for the new or transferred certification not later
23 than 90 days after the registrant first acquires farm-raised deer from the prior certified
24 herd. Certification is not retroactive to the date of acquisition.

1 (b) The herd meets applicable requirements for certification under sub. (1).

2 **SECTION 32.** ATCP 10.51(2) is repealed and recreated to read:

3 ATCP 10.51(2) MAINTAINING CERTIFICATION. (a) Except as provided in par. (b)
4 or (c), a herd certification under sub. (1) expires 36 months after the date on which it is
5 issued.

6 (b) The department may change the expiration date under par. (a) if all of the
7 following apply:

8 1. The keeper of the farm-raised deer requests the change.

9 2. The new expiration date occurs before the original expiration date.

10 3. All test-eligible farm-raised deer in the herd test negative for brucellosis within
11 3 months before or after the new expiration date.

12 (c) The department may renew a herd certification under sub. (1) for a 36-month
13 period beginning immediately after the applicable herd certification expiration date under
14 par. (a) or (b) if the herd keeper submits proof that all test-eligible farm-raised deer in the
15 herd have tested negative for brucellosis within 3 months before or after that expiration
16 date.

17 (d) Test methods and procedures under pars. (b) and (c) shall comply with the
18 brucellosis uniform methods and rules.

19 (e) Except as provided in pars. (a) to (c), a herd certification under sub. (1) is
20 contingent upon compliance with the brucellosis uniform methods and rules.

21 **SECTION 33.** ATCP 10.51(4) is created to read:

22 ATCP 10.51(4) CERTIFICATION TRANSFERRED, OR BASED ON SOURCE HERD

23 CERTIFICATION. The department may not transfer a herd certification under sub. (1) to

1 another herd or herd registrant, or certify a herd based solely on prior certification of
2 another herd from which the herd received its farm-raised deer, unless all of the following
3 apply:

4 (a) The herd registrant applies for the new or transferred certification not later
5 than 90 days after the registrant first acquires farm-raised deer from the prior certified
6 herd. Certification is not retroactive to the date of acquisition.

7 (b) The herd meets applicable requirements for certification under sub. (1).

8 **SECTION 34.** ATCP 10.52(1)(intro.) is amended to read:

9 ATCP 10.52(1)(intro.) TESTING REQUIRED. A person who keeps farm-raised
10 deer in this state shall have a chronic wasting disease test performed, according to this
11 section, on each of the following farm-raised deer that is at least ~~46~~ 8 months old:

12 **SECTION 35.** ATCP 10.52(3)(a) is repealed and recreated to read:

13 ATCP 10.52(3)(a) A chronic wasting disease test under sub. (1) shall be
14 performed on a tissue sample that complies with all of the following requirements:

15 1. The tissue sample shall be collected by a qualified person under sub. (4).

16 2. The tissue sample shall be collected within 10 days after the farm-raised deer
17 dies or is killed or slaughtered, or within 10 days after its death is first discovered.

18 3. Except as provided in par. (b), the tissue sample shall be collected before any
19 part of the farm-raised deer carcass leaves the premises where the farm-raised deer died,
20 or was killed or slaughtered.

21 **SECTION 36.** ATCP 10.52(8) is repealed and recreated to read:

1 ATCP 10.52(8) CONDEMNED FARM-RAISED DEER. (a) The department may order
2 the slaughter or destruction of farm-raised deer, as provided in s. 95.23(1m) or 95.31,
3 Stats. An order may do all of the following:

- 4 1. Specify a reasonable deadline for the slaughter or destruction.
- 5 2. Direct appropriate disease testing and disposition of the carcasses.
- 6 3. Require the herd owner or custodian to enter into a premises plan agreement
7 under par. (b), within a reasonable time specified in the order, as a condition to the
8 payment of indemnities under par. (c). The terms of a premises plan agreement may be
9 contingent on the outcome of disease testing.

10 (b) A premises plan agreement under par. (a)3. may require the herd owner or
11 custodian to clean and disinfect the herd premises, limit future cervid movement to and
12 from the premises, or comply with other requirements that are reasonably designed to
13 prevent the spread of disease. An agreement may include a restrictive covenant, such as a
14 fence maintenance requirement, that is binding on subsequent property owners for the
15 duration of the agreement.

16 (c) The owner of farm-raised deer slaughtered or destroyed pursuant to a
17 department order under par. (a) may request an indemnity as provided in s. 95.23(1m) or
18 95.31, Stats. The owner shall file the request with the department, on a form provided by
19 the department. The request shall include proof of compliance with the department's
20 order under par. (a).

21 **SECTION 37.** ATCP 10.53(5)(f)1. is amended to read:

1 ATCP 10.53(5)(f)1. Whether the farm-raised deer escaped, died on the premises,
2 was shipped directly to a slaughtering establishment for slaughter, or was shipped to a
3 place other than a slaughtering establishment.

4 **SECTION 38.** ATCP 10.53(5)(f)5., (g) to (i) and (i)(note) are created to read:

5 ATCP 10.53(5)(f)5. If a farm-raised deer appears to have escaped, the
6 information required under par. (g).

7 (g) The following information related to every farm-raised deer that appears to
8 have escaped:

- 9 1. The approximate date of the escape.
- 10 2. The date of the escape report under s. ATCP 10.46(12).
- 11 3. The circumstances that resulted in the escape.
- 12 4. Steps taken to prevent recurring escapes.

13 (h) An explanation and accounting for changes in the overall herd population, or
14 in any herd population category under pars. (a) to (c), since the previous year's annual
15 census.

16 (i) Census verification by a certified veterinarian if required by the department.

17 **NOTE:** The department may require census verification by a certified
18 veterinarian if, for example, the federal bureau requires such verification
19 or the census contains significant discrepancies.

20 **SECTION 39.** ATCP 10.53(8)(b) is amended to read:

21 ATCP 10.53(8)(b) The department may by written notice, without prior notice or
22 hearing, revoke a herd's enrollment in the herd status program under this section if the
23 herd keeper fails, within a reasonable time, to correct conditions for which ~~that~~ the
24

1 department has suspended the herd's enrollment under sub. (7). A reasonable period of
2 time to correct conditions under sub. (7)(a)4. is 6 months.

3 **SECTION 40.** ATCP 10.55(3)(c) and (d) are repealed.

4 **SECTION 41.** ATCP 10.55(4)(b) is amended to read:

5 ATCP 10.55(4)(b) The farm-raised deer originates from a herd that qualifies as a
6 tuberculosis qualified herd, based on a whole herd test completed within ~~180~~ 365 days
7 prior to the import date.

8 **SECTION 42.** ATCP 10.55(4)(c) and (d) are repealed.

9 **SECTION 43.** ATCP 10.55(5) is repealed.

10 **SECTION 44.** ATCP 10.56(1)(d) is created to read:

11 ATCP 10.56(1)(d) A farm-raised deer movement that is treated as a movement
12 within a single herd for purposes of s. ATCP 10.46(5)(b).

13 **SECTION 45.** ATCP10.56(3)(d)1. is amended to read:

14 ATCP 10.56(3)(d)1. It has tested negative on 2 tuberculosis tests conducted 90 to
15 270 days apart, and the second test was performed within ~~360~~ 90 days prior to the
16 movement date.

17 **SECTION 46.** ATCP 10.56(4)(b) is repealed and recreated to read:

18 ATCP 10.56(4)(b) It has been enrolled in the chronic wasting disease herd status
19 program under s. ATCP 10.53 for at least 5 years.

20 **SECTION 47.** ATCP 10.56(4)(c) is created to read:

21 ATCP 10.56(4)(c) If located in an eradication zone under NR 10.28(3), it has
22 been completely and continuously confined for at least 5 years by a department-approved
23 double fence that has at all times met all of the following requirements:

1 1. Each component fence forming part of the double fence is at least 8 feet high
2 at every point.

3 2. The 2 component fences are at least 10 feet but not more than 16 feet apart at
4 every point.

5 **SECTION 48.** ATCP 10.60(4)(note) is repealed.

6 **SECTION 49.** ATCP 10.61(1)(intro.) is amended to read:

7 ATCP 10.61(1)(intro.) REGISTRATION CERTIFICATE REQUIRED. Except as provided in
8 sub. (2), no person may operate a fish farm for any of the following purposes without ~~an~~ a
9 current annual registration certificate from the department ~~for~~ that identifies that fish farm as a
10 registered fish farm:

11 **SECTION 50.** ATCP 10.61(1)(note, first paragraph) is amended to read:

12 **NOTE:** A Wisconsin department of natural resources (DNR) stocking permit is needed
13 to stock fish into the waters of the state. However, a DNR stocking permit is not
14 needed to stock fish into a fish farm registered under sub. ~~(2)~~ (1). See s. 29.736,
15 Stats.

16 **SECTION 51.** ATCP 10.61(2)(intro.) is amended to read:

17 ATCP 10.61(2)(intro.) EXEMPTIONS. A person may do any of the following without a
18 registration certificate under sub. ~~(2)~~ (1):

19 **SECTION 52.** ATCP 10.61(3) is repealed and recreated to read:

20 ATCP 10.61(3) TYPE 1 OR TYPE 2 REGISTRATION. (a) A fish farm shall be annually
21 registered as a type 1 or type 2 fish farm. An operator may, by paying the applicable type 2
22 registration fee under sub. (7), re-register a fish farm as a type 2 fish farm during a registration
23 year for which the fish farm is already registered as a type 1 fish farm. The type 1 registration
24 fee previously paid does not count as a credit toward payment of the type 2 registration fee.
25

1 (b) Except as provided in par. (c), a person may not sell, trade or distribute live fish or
2 fish eggs from a fish farm unless that person holds a current annual registration certificate from
3 the department that identifies that fish farm as a type 2 fish farm.

4 (c) A person may do any of the following, regardless of whether a fish farm is registered
5 as a type 1 or type 2 fish farm:

6 1. Allow fishing at a registered fish farm, including public fishing for a fee.

7 2. Sell, trade or distribute live fish or fish eggs from a registered fish farm to a food
8 processing plant, retail food establishment or restaurant at which the fish or fish eggs are held for
9 not more than 30 days pending slaughter or sale to consumers at that facility, provided that the
10 facility does not discharge to waters of the state any untreated water used to hold or process those
11 fish or fish eggs.

12 **SECTION 53.** ATCP 10.61(3)(note) is repealed.

13 **SECTION 54.** ATCP 10.61(5) is repealed and recreated to read:

14 ATCP 10.61(5) ANNUAL REGISTRATION CERTIFICATE; CONTENTS. An annual registration
15 certificate under sub. (1) may cover one or more fish farms registered to the same operator. A
16 registration certificate shall include all of the following information:

17 (a) The name, address and telephone number of the fish farm operator.

18 (b) The location of each fish farm registered to the operator. The location shall include
19 the county, town, section number, and fire number or geographic coordinates.

20 (c) The livestock premises code assigned under s. ATCP 17.02(7) to each registered fish
21 farm.

22 (d) Information showing whether each fish farm is registered as a type 1 or type 2 fish
23 farm. A single registration certificate may cover both type 1 and type 2 fish farms.

1 **SECTION 55.** ATCP 10.61(5)(note) is repealed.

2 **SECTION 56.** ATCP 10.61(6) and (7) are repealed and recreated to read:

3 ATCP 10.61(6) APPLYING FOR A REGISTRATION CERTIFICATE. To obtain an annual
4 registration certificate under sub. (1), an operator shall submit an application to the department
5 on a form provided by the department. The application shall include all of the following:

6 (a) The operator's name, address and telephone number.

7 (b) The location of each fish farm that the operator wishes to register. The location shall
8 include county, town, section number, and fire number or geographic coordinates.

9 (c) The livestock premises code assigned under s. ATCP 17.02(7) to each fish farm.

10 (d) A statement indicating, for each fish farm, whether the operator wishes to register the
11 fish farm as a type 1 or type 2 fish farm.

12 (e) Applicable fees required under sub. (7).

13 (f) The name, address and telephone number of the individual responsible for
14 administering each fish farm on behalf of the operator, if the individual administering that fish
15 farm is not the operator.

16 (g) The species of fish hatched or kept at each fish farm.

17 (h) A description of each fish farm facility.

18 (i) A description of the fish farming activities conducted at each fish farm.

19 (j) A statement indicating whether the fish farm operator engages in any of the following
20 activities:

21 1. Buying, trading or importing fish or fish eggs for resale, processing or exchange
22 within this state, other than solely for breeding, bait or human consumption.

1 2. Distributing fish or fish eggs, other than fish or fish eggs produced on the operator's
2 fish farm, from any place in this state to any place outside this state.

3 (k) Other relevant information required by the department.

4 (7) REGISTRATION FEES. (a) Except as provided in par. (b), an operator shall pay the
5 following annual fish farm registration fees, as applicable:

6 1. A nonrefundable fee of \$37.50 for a type 1 fish farm, or a total nonrefundable fee of
7 \$50 for 2 or more type 1 fish farms.

8 2. A total nonrefundable fee of \$125 for up to 5 type 2 fish farms, \$150 for more than 5
9 but not more than 10 type 2 fish farms, \$200 for more than 10 but not more than 20 type 2 fish
10 farms, and \$300 for more than 20 type 2 fish farms.

11 (b) Primary and secondary school districts are exempt from registration fees under par.
12 (a).

13 (c) A fish farm operator shall pay the full annual registration fee for a fish farm
14 registered for less than a full registration year.

15 (d) An operator shall pay, in addition to the annual registration fee under par. (a), a
16 surcharge equal to the amount of that fee if the department determines that, within 365 days prior
17 to submitting a registration application under sub. (6), the operator operated the fish farm without
18 a registration certificate required under sub. (1) or (3)(b). Payment of the surcharge does not
19 relieve the operator of any other penalty or liability that may result from the violation, nor does it
20 constitute evidence of a violation.

21 **SECTION 57.** ATCP 10.61(12) and (note) are created to read:

22 ATCP 10.61(12) REGISTRANT RESPONSIBILITY. A person who registers a fish
23 farm under sub. (1) is responsible for ensuring that fish farm operations comply with

1 relevant provisions of this chapter. This subsection does not relieve other persons of
2 liability for violations of this chapter.

3 **NOTE:** If the Wisconsin Department of Natural Resources (DNR) registers as
4 the operator of a privately-owned “cooperator” fish farm under sub. (1),
5 DNR is responsible for ensuring that all operations of that fish farm
6 comply with this chapter (the private operator may also be held
7 responsible if that operator violates this chapter).
8

9 **SECTION 58.** ATCP 10.62(2)(b)3. and (c)3. are created to read:

10 ATCP 10.62(2)(b)3. All of the dead fish and offal from the buildings are
11 rendered, composted, or disposed of by other means approved by the department.

12 (c)3. All of the dead fish and offal from the receiving facility are rendered,
13 composted, or disposed of by other means approved by the department.

14 **SECTION 59.** ATCP 10.63(2) is amended to read:

15 ATCP 10.63(2) DISEASED FISH. No person may introduce live fish or fish eggs
16 into waters of the state or distribute live fish or fish eggs for sale as bait if that person
17 knows, or has reason to know, that those fish or fish eggs are infected with or show
18 clinical signs of any reportable disease under s. ATCP 10.66.

19 **SECTION 60.** ATCP 10.64(1) and (2) are amended to read:

20 ATCP 10.64(1) VALID HEALTH CERTIFICATE REQUIRED. ~~No~~ Except as provided in sub.
21 (3), no person may move any live fish or fish eggs between fish farms in this state unless those
22 fish or fish eggs are covered by a valid health certificate under s. ATCP 10.65. A qualified fish
23 health inspector shall issue the health certificate based on an inspection of the fish or fish eggs,
24 or of the farm from which they originate. A health certificate does not cover a movement that
25 occurs after the health certificate expires.

1 (2) DISEASED FISH. No person may move any live fish or fish eggs between fish
2 farms in this state if that person knows, or has reason to know, that those fish or fish eggs
3 are infected with or show clinical signs of any reportable disease under s. ATCP 10.66.

4 **SECTION 61.** ATCP 10.64(3) is created to read:

5 ATCP 10.64(3) Subsection (1) does not apply to the movement of live fish or fish eggs
6 between type 2 fish farms that are registered under s. ATCP 10.61 by the same person, or from a
7 type 2 fish farm to a type 1 fish farm registered by the same person, provided that the person
8 keeps complete records of the movement as required by s. ATCP 10.61(10).

9 **SECTION 62.** ATCP 10.645 and (note) are created to read:

10 **ATCP 10.645 Bait fish from wild sources.** No bait dealer who is required to
11 hold a license under s. 29.509, Stats., may distribute for use as bait any of the following
12 fish or fish eggs of a species that the federal bureau has found to be susceptible to viral
13 hemorrhagic septicemia (VHS) unless the fish or fish eggs are covered by a valid fish
14 health certificate that complies with s. ATCP 10.65:

15 (1) Fish or fish eggs collected from a wild source within the 12 month period
16 immediately preceding the distribution date.

17 (2) Fish or fish eggs kept at a fish farm that received fish or fish eggs of any
18 species collected from a wild source within the 12 month period immediately preceding
19 the distribution date.

20 **NOTE:** A “wild source” under s. ATCP 10.645 includes a wild source in this
21 state or outside this state. Fish and fish eggs imported from other states
22 (including bait fish and fish eggs) must also comply with import
23 requirements under s. ATCP 10.62. Species that the federal bureau has
24 found to be susceptible to viral hemorrhagic septicemia are listed at
25 www.aphis.usda.gov/vs/aqua/. Section ATCP 10.645 applies to additional
26 species if and when the federal bureau finds that those species are

1 susceptible. DATCP will identify susceptible species (per USDA
2 findings) in the fish health certificate form under s. ATCP 10.65.

3
4 **SECTION 63.** ATCP 10.65(1) is amended to read:

5 ATCP 10.65(1) GENERAL. A fish health certificate under s. ATCP 10.62(3)(f),
6 10.63(1), ~~or 10.64(1)~~ or 10.645 shall comply with this section.

7 **SECTION 64.** ATCP 10.65(4) is repealed and recreated to read:

8 ATCP 10.65(4) CERTIFICATE CONTENTS. (a) A fish health certificate under s.
9 ATCP 10.62(3)(f) shall certify that the fish and fish eggs in the inspected shipment, or at
10 the inspected fish farm, are free of all of the following:

11 1. Visible signs of contagious or infectious disease.

12 2. Infectious hematopoietic necrosis, viral hemorrhagic septicemia (VHS) and
13 whirling disease (*Myxobolus cerebralis*) if an import shipment covered by the health
14 certificate includes salmonids.

15 3. White sturgeon iridovirus if an import shipment covered by the health
16 certificate includes sturgeon.

17 4. Viral hemorrhagic septicemia (VHS) if an import shipment covered by the
18 health certificate includes fish or fish eggs from a state or province where that disease is
19 known to occur.

20 5. Other diseases, if any, specified on the certificate form. The certificate form
21 shall identify the species for which, and circumstances under which, the disease-free
22 certification is required.

1 (b) A fish health certificate issued under s. ATCP 10.63(1) shall certify that the
2 fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all
3 of the following:

4 1. Visible signs of contagious or infectious disease.

5 2. Whirling disease (*Myxobolus cerebralis*) if a shipment covered by the health
6 certificate includes salmonids.

7 3. Viral hemorrhagic septicemia (VHS) if a shipment covered by the health
8 certificate includes any of the following fish or fish eggs of a species that the federal
9 bureau has found to be susceptible to viral hemorrhagic septicemia (VHS):

10 a. Fish or fish eggs collected from a wild source within the 12 month period
11 immediately preceding the shipment.

12 b. Fish or fish eggs kept at a fish farm that received fish or fish eggs of any
13 species collected from a wild source within the 12 month period immediately preceding
14 the distribution date.

15 **NOTE:** A “wild source” under subd. 3. includes a wild source in this state or
16 outside this state. Fish and fish eggs imported from other states (including
17 bait fish and fish eggs) must also comply with import requirements under
18 s. ATCP 10.62. Species that the federal bureau has found to be
19 susceptible to viral hemorrhagic septicemia are listed at
20 www.aphis.usda.gov/vs/aqua/. Subdivision 3. applies to additional species
21 if and when the federal bureau finds that those species are susceptible.
22 DATCP will identify susceptible species (per USDA findings) in the fish
23 health certificate form under s. ATCP 10.65.

24
25 4. Other diseases, if any, specified on the certificate form. The certificate form
26 shall identify the species for which, and circumstances under which, the disease-free
27 certification is required.

1 (c) A fish health certificate issued under s. ATCP 10.64(1) shall certify that the
2 fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all
3 of the following:

4 1. Visible signs of contagious or infectious disease.

5 2. Viral hemorrhagic septicemia (VHS) if a shipment covered by the health
6 certificate includes any of the following fish or fish eggs of a species that the federal
7 bureau has found to be susceptible to viral hemorrhagic septicemia (VHS):

8 a. Fish or fish eggs collected from a wild source within the 12 month period
9 immediately preceding the shipment.

10 b. Fish or fish eggs kept at a fish farm that received fish or fish eggs of any
11 species collected from a wild source within the 12 month period immediately preceding
12 the distribution date.

13 **NOTE:** A “wild source” under subd. 2. includes a wild source in this state or
14 outside this state. Fish and fish eggs imported from other states (including
15 bait fish and fish eggs) must also comply with import requirements under
16 s. ATCP 10.62. Subdivision 2. applies to additional species if and when
17 the federal bureau finds that those species are susceptible. DATCP will
18 identify susceptible species (per USDA findings) in the fish health
19 certificate form under s. ATCP 10.65.
20

21 3. Other diseases, if any, specified on the certificate form. The certificate form
22 shall identify the species for which, and circumstances under which, the disease-free
23 certification is required.

24 (d) A fish health certificate issued under s. ATCP 10.645 shall certify that the
25 fish and fish eggs in the inspected shipment, or at the inspected fish farm, are free of all
26 of the following

27 1. Visible signs of contagious or infectious disease.

- 1 2. Viral hemorrhagic septicemia (VHS).
- 2 3. Other diseases, if any, specified on the certificate form. The certificate form
- 3 shall identify the species for which, and circumstances under which, the disease-free
- 4 certification is required.

5 **NOTE:** A fish health certificate is required under s. ATCP 10.645 whenever a

6 bait dealer distributes as bait any of the following fish or fish eggs of a

7 species that the federal bureau has found to be susceptible to VHS:

8

- 9 • Fish or fish eggs collected from a wild source (in Wisconsin or
- 10 elsewhere) within the 12 month period immediately preceding the
- 11 distribution date.
- 12
- 13 • Fish or fish eggs kept at a fish farm that received fish or fish eggs of any
- 14 species collected from a wild source within the 12 month period
- 15 immediately preceding the distribution date.
- 16

17 (e) A fish health certificate shall include test results from a qualified laboratory to

18 confirm the statements under pars. (a) to (d) if those test results are required by the

19 certificate form.

20 (f) Fish egg inspection under this subsection may be based on brood stock

21 inspection and, if testing is required by the certificate form, testing of the brood stock.

22 **NOTE:** A certificate form that includes requirements under par. (a)5., (b)4.,

23 (c)3., (d)3., (e) or (f) constitutes an order under s. 93.07(10), Stats., which

24 is subject to review in a contested case hearing under ch. 227, Stats., and

25 ch. ATCP 1 unless the department adopts those requirements by rule. If a

26 health certificate does not comply with instructions on the certificate form,

27 the health certificate is invalid.

28

29 **SECTION 65.** ATCP 10.65(5)(b)4. is repealed and recreated to read:

30 ATCP 10.65(5)(b)4. Special disease concerns that are not adequately addressed

31 by the health certificate. These may include special disease concerns related to the

32 species of fish or fish eggs, or the source from which the fish or fish eggs originate.

33 **SECTION 66.** ATCP 10.75 is amended to read:

1 **ATCP 10.75 Goats; Johne’s disease.** The state program for Johne’s disease in
2 goats is equivalent to the program for bovine animals in ss. ATCP 10.15 ~~to 10.19~~ 10.16
3 and 10.18 to 10.20, except that test eligible animals in the goat program shall be 18
4 months of age or older.

5 **SECTION 67.** ATCP 10.85 is created to read:

6 **ATCP 10.85 Llama and alpaca imports.** No person may import a llama or
7 alpaca into this state unless the llama or alpaca is accompanied by a valid certificate of
8 veterinary inspection. The certificate shall include the official individual identification of
9 the llama or alpaca.

10 **SECTION 68.** ATCP 10.92(1)(r) is created to read:

11 ATCP 10.92(1)(r) Sell, move or dispose of an animal before the result of a
12 disease test of that animal is known, if that disease test is required under this chapter prior
13 to that sale, movement or disposition.

14 **SECTION 69.** ATCP 12.02(1) is amended to read:

15 ATCP 12.02(1) LICENSE REQUIRED. No person may operate an animal market
16 without an annual license from the department. A separate license is required for each
17 animal market. The license shall bear a the livestock premises code issued ~~to the license~~
18 ~~holder~~ under s. ATCP 17.02(7) for the animal market. An annual license expires on June
19 30. A license is not transferable between persons or animal markets.

20 **SECTION 70.** ATCP 12.02(5) is repealed.

21 **SECTION 71.** ATCP 12.02(8)(j) is created to read:

22 ATCP 12.02(8)(j) Transport and handle animals in a safe and humane manner.

23 **SECTION 72.** ATCP 12.03(6) is repealed.

1 **SECTION 73.** ATCP 12.03(9)(i) is created to read:
2 ATCP 12.03(9)(i) Transport and handle animals in a safe and humane manner.

3 **SECTION 74.** ATCP 12.04(2)(c)3. and (5) are repealed.

4 **SECTION 75.** ATCP 12.045(3)(a) is amended to read:

5
6 ATCP 12.045(3)(a) A person shall pay ~~an~~ a non-refundable annual fee of \$10 for
7 each vehicle registration sticker under this section.

8 **SECTION 76.** ATCP 12.045(1) and (note) are repealed and recreated to read:

9 ATCP 12.045(1) ANNUAL REGISTRATION STICKER REQUIRED. (a) No animal
10 market operator, animal dealer or animal trucker may operate an animal transport vehicle
11 unless each side of the vehicle bears one part of a 2-part annual vehicle registration
12 sticker issued by the department. An annual vehicle registration sticker expires on June
13 30.

14 (b) The department may issue an annual vehicle registration sticker under par. (a)
15 to a licensed animal market operator, animal dealer or animal trucker who owns or
16 operates the vehicle. If a license holder owns a vehicle operated by another license
17 holder, the license holder that owns the vehicle shall obtain the vehicle registration
18 sticker under par. (a).

19 (c) If a registrant under par. (b) controls the operation of the animal transport
20 vehicle for less than the full registration year, the registrant shall record the name and
21 address of each person who controlled the operation of the vehicle at any time during the
22 year, and the time period during which that person controlled that operation. The
23 registrant shall retain the record for at least 5 years, and shall make it available to the
24 department for inspection and copying upon request.

1 **NOTE:** Subsection (1) applies to animal transport vehicles operated by animal
2 market operators, animal dealers and animal truckers, regardless of who
3 owns the animals transported in those vehicles.
4

5 Under sub. (1)(c), if a registrant leases an animal transport vehicle to or
6 from another person for part of the registration year, the registrant must
7 record the name and address of the other party to the lease, and the time
8 period of the lease.
9

10 **SECTION 77.** ATCP 12.045(4) is amended to read:

11 ATCP 12.045(4) ACTION ON REGISTRATION APPLICATION. The department shall
12 grant or deny an application under sub. (2) within 30 business days after the department
13 receives a complete application or, if a person submits the application with a license
14 application under s. ATCP 12.02, 12.03 or 12.04, by the license action deadline. The
15 department shall issue a 2-part registration sticker for each registered vehicle. ~~The~~
16 ~~department shall issue a registration sticker in 2 parts, each of which shall contain the~~
17 ~~same unique registration number and the year of issuance~~ Each part of the 2-part
18 registration sticker shall identify the registration year for which the 2-part registration
19 sticker is issued.

20 **SECTION 78.** ATCP 12.05(4) is amended to read:

21 ATCP 12.05(4) IDENTIFICATION OF SHEEP. Whenever an animal dealer or animal
22 market operator receives any sheep, the animal dealer or ~~animal~~ animal market operator
23 shall immediately record the official individual identification of that sheep, if any. If a
24 sheep has no official individual identification when received by an animal dealer or
25 animal market operator, the animal dealer or animal market operator shall immediately
26 identify that sheep with an official individual identification if that identification is
27 required under s. ATCP 10.70.

28 **SECTION 79.** ATCP 12.05(6) is created to read:

1 ATCP 12.05(6) IDENTIFICATION OF GOATS. Whenever an animal dealer or animal
2 market operator receives any goats, the animal dealer or market operator shall
3 immediately record the official individual identification of that goat, if any. If a goat has
4 no official individual identification when received by an animal dealer or market
5 operator, the animal dealer or market operator shall immediately identify that goat with
6 an official individual identification if that identification is required to be identified under
7 s. ATCP 10.77.

8 **SECTION 80.** ATCP 12.06(1)(bc) is amended to read:

9 ATCP 12.06(1)(bc) The livestock premises code, if any, of the premises from
10 which the animal was received and the livestock premises code of the premises to which
11 the animal is shipped or delivered.

12 **SECTION 81.** ATCP 12.08(6) is amended to read:

13 ATCP 12.08(6) Fail to provide, within 10 days following the receipt of a written
14 request from the department, any relevant report or document relating to the
15 transportation of animals or any official individual identification of animals purchased,
16 sold or transported. The department may extend the compliance deadline under this
17 subsection for good cause shown.

18 **SECTION 82.** ATCP 17.01(8) and (28) are amended to read:

19 ATCP 17.01(8) “Bovine animal” means beef cattle, dairy cattle, or American
20 bison of any age or sex.

21 ATCP 17.01(28) “Poultry” means domesticated fowl commonly used for human
22 food, including domesticated chickens, turkeys, geese, ducks, guinea fowl ~~and~~, squab,

1 ratites and captive game birds. ~~“Poultry” does not include ratites or and captive game~~
2 ~~birds.~~

3 **SECTION 83.** ATCP 17.02(1) and (note) are amended to read:

4 ATCP 17.02(1) GENERAL. A person may not keep livestock at a location in this
5 state unless that location is registered under this section. There is no fee to register. A
6 registration expires on the third December 31 ~~of each year, except as otherwise provided~~
7 ~~in sub (2)(e) after it is issued.~~

8 **NOTE:** Once a person completes an initial registration, subsequent ~~annual~~
9 registrations will be relatively simple. The department will send the
10 registrant a renewal application form (or directions on how to renew on-
11 line) each year prior to the renewal deadline. The renewal transaction may
12 be conducted by mail, online or by e-mail if an e-mail address has been
13 provided. The renewal application form will include pre-printed
14 information obtained from the previous ~~year’s~~ registration. The registrant
15 may renew the registration by returning the pre-printed form with
16 corrections, if any. There is no fee for an initial or renewal registration.
17

18 **SECTION 84.** ATCP 17.02(2)(a)(note) is amended to read:

19 **NOTE:** For example, if *Person A* feeds and cares for livestock owned by
20 *Person B*, on premises owned by *Person C*, any one of those persons may
21 register the premises (the others need not). ~~But operators identified in par.~~
22 ~~(e) must register the premises that they operate, and may not delegate their~~
23 ~~registration responsibilities to others.~~
24

25 **SECTION 85.** ATCP 17.02(2)(b) is amended to read:

26 ATCP 17.02(2)(b) A person may not register a premises that is currently
27 registered by another person. The department may transfer a current registration from the
28 current registrant to another person if the department finds that the other person is
29 ~~required to register the premises under par. (e)~~ licensed to operate the premises under
30 other applicable law, is more directly engaged in operating the premises, or can provide
31 more definitive knowledge of livestock movements to and from the premises. The

1 department shall notify the current registrant and give the current registrant a chance to
2 comment before transferring a registration to another person.

3 **SECTION 86.** ATCP 17.02(2)(c) is repealed and recreated to read:

4 ATCP 17.02(2)(c) If a person keeps livestock at any location as part of an
5 operation for which that person is required to hold another license, registration or permit
6 from the department, that person may register that location as part of the person's initial
7 application for that other license, registration or permit.

8 **SECTION 87.** ATCP 17.02(2)(c)(note) is created to read:

9 **NOTE:** For example, if a person holds or is required to hold a dairy farm license
10 under s. ATCP 60.02(2), a deer farm registration under s. ATCP 10.46(1),
11 a fish farm registration under s. ATCP 10.61(1), an animal market license
12 under s. ATCP 12.02, an animal dealer license under s. ATCP 12.03, an
13 animal trucker license under s. ATCP 12.04, a meat establishment license
14 under s. ATCP 55.03(1), an equine quarantine station permit under s.
15 ATCP 10.37(3), or a rendering establishment or other license under s.
16 95.72, Stats., that person may register each related livestock premises
17 location as part of the person's initial application for that other license,
18 registration or permit. Subsequent license renewal applications must
19 include the livestock premises registration number assigned under this
20 chapter.
21

22 **SECTION 88.** ATCP 17.02(2)(d) is created to read:

23 ATCP 17.02(2)(d) The department may register under this section a location at
24 which a person is known to keep livestock if that person fails to register that location.
25 Before the department registers any location on behalf of any person, the department
26 shall notify that person of the person's duty to register and of the department's intent to
27 register on that person's behalf. Registration by the department does not relieve the
28 person of any penalties or liability that may apply as a result of the person's failure to
29 register the location.

30 **SECTION 89.** ATCP 17.02(4)(d) is amended to read:

1 ATCP 17.02 (4)(d) The address of the primary premises location, including
2 county.

3 **SECTION 90.** ATCP 17.02(4)(h)1. and 8. to 10. are repealed and recreated to
4 read:

5 ATCP 17.02(4)(h)1. Bovine animals. The registrant shall indicate whether the
6 bovine animals are beef cattle, dairy cattle or bison.

7 8. Llamas, alpacas or other camelids.

8 9. Fish.

9 10. Other. The registrant shall specify the type or types of livestock.

10 **SECTION 91.** ATCP 17.02(4)(h)11. and 12. are repealed.

11 **SECTION 92.** ATCP 17.02(5)(d) is amended to read:

12 ATCP 17.02(5)(d) If a person submits a registration application under sub. (2)(c)
13 as part of that person's application for another license, permit or registration ~~identified in~~
14 ~~sub. (2)(c)~~, the department shall grant or deny the registration application within the time
15 period prescribed for department action on the other license, permit or registration
16 application. The denial, suspension or revocation of another license, permit or
17 registration does not affect a premises registration under this section.

18 **SECTION 93.** ATCP 17.02(6)(a) is amended to read:

19 ATCP 17.02(6)(a) Whenever the department grants a registration application
20 under sub. (3), the department shall immediately issue ~~an annual~~ a registration certificate
21 to the registrant. The registration certificate shall bear an expiration date that complies
22 with sub. (1). The department shall issue the registration certificate in hard-copy or
23 printable electronic form, depending on the method of registration.

1 **SECTION 94. EFFECTIVE DATE AND INITIAL APPLICABILITY.** (1) Except as
2 provided in subs. (2) and (3), this rule takes effect on the first day of the month following
3 publication in the Wisconsin administrative register, as provided under s.
4 227.22(2)(intro.).

5 (2) This rule first applies to small businesses as defined in s. 227.114(1), Stats.,
6 on the first day of the third month commencing after the rule publication date, as required
7 by s. 227.22(2)(e), Stats.

8 (3) The treatment of s. ATCP 10.46(3) by this rule first applies to registration certificates
9 issued for the first registration year beginning after the effective date of this rule.

Dated this _____ day of _____, _____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Rodney J. Nilsestuen, Secretary