



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: December 9, 2013

TO: The Honorable Mike Ellis
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Room 220 South, State Capitol
PO Box 7882
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The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 211, West, State Capitol
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FROM: Ben Brancel, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Animal Disease Control; Animal Movement; and Animal Markets, Dealers and Truckers, Chs. ATCP 10 and 12; Final Draft Rule (Clearinghouse Rule #13-058)

Introduction

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

Background

Many of the programs regulated by state administrative rules are also regulated by federal rules. As federal rules change over time, state rules must also be modified so Wisconsin producers comply with consistent, non-conflicting requirements when moving livestock interstate. This rule modifies provisions relating to documentation required for horses, and to official individual identification of certain animals to align with federal traceability rules. The rule also modifies provisions relating to the chronic wasting disease (CWD) herd status program to align with United States Department of Agriculture (USDA) rules that establish a Herd Certification Program (HCP) for CWD in farm-raised or captive cervids in the United States. Finally, the rule makes various modifications to align with state statutory requirements and to provide for flexibility, clarity and consistency.

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Rule Content

Federal Regulation Modifications

Documentation required for horses moving interstate

The current rule allows horses to be imported without a certificate of veterinary inspection (CVI) if the horse is not commingled with other horses and goes to slaughter within 10 days after arrival at an animal market. Federal regulations no longer allow for this CVI exemption. Therefore, this rule will eliminate this CVI exemption for horses to be consistent with federal regulations.

Official individual identification of animals

The current rule allows bovine animals to be officially identified with eartags approved by the United States Department of Agriculture (USDA) or the department, registration numbers, or tattoos. Federal rules now only allow official eartags to be used as official identification. The official eartags must adhere to the National Uniform Eartagging System, the Animal Identification Number System, or other identification system approved by the USDA and the department. In addition, federal rules now require the following bovine animals to have official identification: all sexually intact cattle/bison over 18 months of age, all female dairy cattle of any age, all male dairy cattle born after March 11, 2013, and cattle/bison used for shows and exhibitions. The proposed rule modifies the definition of “official individual identification” and “official eartag” when applied to bovine animals to align with federal traceability requirements.

The current rule allows farm-raised deer enrolled in the CWD herd status program to be officially identified with a CWD status program registration tag or a premises tattoo, provided the farm-raised deer also has a unique individual identification number. Federal rules now only allow official eartags to be used as official identification of these deer. The official eartags must adhere to the National Uniform Eartagging System, the Animal Identification Number System, or other identification system approved by the USDA and the department. The proposed rule modifies the definition of “official individual identification” and “official eartag,” as applied to farm-raised deer, to align with federal traceability requirements.

The current rule definition of “official individual identification,” as it pertains to other animals, is unclear. The proposed rule modifies the definition of official individual identification for clarity when the term is applied to other animals.

Farm-raised deer enrolled in the CWD herd status program

The current rule requires a farm-raised deer keeper (FRDK) whose herd is enrolled in the CWD herd status program to conduct an annual herd census and file a report of that herd census with the department. To comply with new federal requirements under 9 CFR 55.23 (b) (4), the proposed rule requires that a physical herd inventory be completed by a herd veterinarian or department-authorized agent before a FRDK may enroll in the CWD herd status program.

Similar physical herd inventories must be completed every three years thereafter to maintain enrollment. For FRDKs currently enrolled in the CWD herd status program, the proposed rule requires the first complete herd inventory to be submitted to the department by December 31, 2015, providing reasonable time to comply.

The current rule requires farm-raised deer enrolled in the CWD herd status program to have one official identification. To comply with new federal requirements under 9 CFR 55.25 that became effective December 10, 2012, the proposed rule requires that two identifications (one official and the second either official or unique to the herd) be attached to farm-raised deer that are enrolled in the CWD herd status program. The proposed rule also requires the two identifications be recorded in the annual census report, as well as the physical herd inventory conducted every three years.

The current rule specifies that a farm-raised deer is CWD test-eligible if it is at least 16 months old, unless a different age is required under USDA rules. USDA rules, under 9 CFR 55.23 (b) (4), now require herd owners enrolled in a CWD herd certification program to test deer aged 12 months or older for CWD upon death, including by slaughter or hunt (effective 12/10/12). The proposed rule clarifies that the age of test-eligible farm-raised deer enrolled in the CWD herd status program is 12 months of age or older in accordance with USDA regulations.

State Statutory Modifications

All of the programs regulated by state administrative rules are authorized by Wisconsin Statutes. As statutory modifications are made, state rules must also be modified to be in compliance with Wisconsin Statutes. To be in compliance with state statutes, the proposed rule modifies provisions relating to:

1. Establishing veteran fee waivers for farm-raised deer and fish farm registration (pursuant to 2011 Wisconsin Act 209).
2. Eliminating certain record keeping requirements for persons who operate a fish farm but sell fish to an individual for the individual's personal use as food or bait (pursuant to 2011 Wisconsin Act 207).
3. Eliminating the requirement that a person have an import permit when bringing fish or fish eggs from a fish farm in another state to a fish farm in this state if he or she has a valid fish health certificate that covers the fish or fish eggs (pursuant to Wisconsin Act 207).
4. Eliminating the DNR exemption from the requirement to obtain a permit from the department to bring fish into this state (pursuant to 2011 Wisconsin Act 207).

Flexibility, Clarity, and Consistency

The proposed rule makes the following modifications to provide for flexibility, clarity and consistency:

- Definitions and terms.

Replacing the term “American association of zoological parks and aquariums” with “association of zoos and aquariums,” the current title of the entity.

Changing the definition of “feeder cattle” in ch. ATCP 10 to be consistent with the definition of feeder cattle in ch. ATCP 12.

Modifying the definition of “individual” for clarity.

Creating the definition of “immediate family member” to clarify what individuals are eligible to collect a CWD test sample once properly trained.

Creating a definition of “salvage value” to clarify that payment received from any source, other than state or federal indemnifications, are considered part of the salvage value of an animal.

Creating a definition of “net salvage value” to mean the salvage value plus any federal indemnities received by the owner.

Allowing vicunas to have the same import requirements as llamas, alpacas and guanacos as they are all classified as South American camelids. Currently vicunas are treated as an exotic ruminant and have additional import requirements.

- Blanket import permit.

Creating a blanket import permit system to be used when the department is not open for business. An accredited veterinarian or a Wisconsin importer who anticipates a possible purchase of an animal from an out-of-state farm or sale at a time the department is not open for business may apply for a blanket import permit, by providing some specifics, and following up with the details on the first business day.

- Johne’s program.

Clarifying that reimbursements under the Johne’s program are made only when funds are available. In the past, funding for the program has been available through state appropriations under s. 20.115 (2) (c), Wis. Stats., and the federal government. However, state funding for the Johne’s program was eliminated in the 2013-15 biennial budget and the federal funding is no longer available. The proposed rule also modifies the language requiring a herd agreement to be between the owner and the department to clarify that a herd owner may change veterinarians who vaccinate against Johne’s disease without having to complete a new herd agreement.

- Bovine.

Eliminating the requirement that official individual identification of bovine animals be inserted in the *right* ear of the animal.

- Swine.

Eliminating the requirement that a certificate of veterinary inspection (CVI) include a statement that no pseudorabies vaccine has been used on a swine imported into Wisconsin. In the alternative, the proposed rule requires that a statement disclosing the porcine reproductive and respiratory syndrome status (PRRS) and the porcine epidemic diarrhea (PED) status of the herd of origin, if known, be included on the CVI of an imported swine. This change was made in consultation with the swine industry which felt the genetics of the hogs bred in Wisconsin were in need of protection from the diseases of PRRS and PED.

Adding PED to the list of diseases to be reported to the department within 10 days.

- Equine.

Changing the timing of the required negative equine infectious anemia (EIA) test result from “during the current calendar year” to “within 12 months” of the purchase, sale, transfer or import of the equine into this state. This will make Wisconsin’s EIA testing intervals consistent with other states, facilitating interstate movement.

- Poultry.

Eliminating the turkey commingling prohibitions to benefit small poultry farmers.

- Farm-raised deer.

Modifying required information for the location of a deer farm.

Eliminating a provision on farm-raised deer moving to a tuberculosis isolation and testing facility as such facilities no longer exist.

Requiring that FRDKs include in their records the circumstances which resulted in an escape, consistent with the information reported to the department whenever a farm-raised deer escapes a registered herd. Whatever is *reported* to the department must be *recorded* in herd records.

Requiring that FRDKs keep a record of where a carcass is buried or otherwise disposed of, consistent with record keeping requirements for deer killed on a hunting preserve.

Clarifying that all farm-raised deer that are killed intentionally, including escaped deer, must be tested for CWD if they are test-eligible.

Eliminating the requirement that the livestock premises code be included in the herd records of farm-raised deer added to a herd under the CWD herd status program.

Establishing training requirements for FRDKs, their immediate family members, and their employees to be qualified to collect CWD test samples. The proposed rule also establishes a fee for becoming a qualified CWD test sample collector.

Clarifying that official individual identification numbers be included on a certificate of veterinary inspection for farm-raised deer imported or moving in Wisconsin.

Specifying that a person holding a hunting preserve certificate give a hunter the results of CWD tests that are requested by the hunter or that are positive.

- Fish.

Modifying required information for the location of a fish farm.

Clarifying when a valid fish health certificate must accompany any fish and fish eggs moved from a fish farm that has registered two or more fish farms at a single location. Current rules require a valid health certificate accompany *any* fish or fish eggs moved between *any* of the registered fish farms. The proposed rule will require a valid health certificate accompany *only* fish or fish eggs of a species found to be susceptible to VHS, moving from a type 3 fish farm.

Eliminating the record keeping requirements for sales of farm-raised fish or fish eggs sold directly to a consumer for bait or food.

- Appendices to ch. ATCP 10.

The current rule requires a person who diagnoses, or obtains, credible diagnostic evidence of a disease listed in Appendix A report that finding to the department within one day. The proposed rule removes *Mycoplasma meleagridis* from Appendix A and adds it to Appendix B which requires the listed diseases be reported to the department within 10 days. Porcine Epidemic Diarrhea (PED) is also added to the Appendix B list.

- Animal markets, dealers and truckers.

Clarifying that Class A animal markets may conduct livestock and wild animal sales and auctions on any number of days during the license year.

Clarifying that Class B animal markets may conduct livestock sales on any number of days during the license year but may hold auctions on no more than 4 days during the license year.

Clarifying that any person, *as principal or agent*, engaged in the business of animal dealing must hold an animal dealer license. This language aligns the rule with Wisconsin Statutes.

Clarifying the language regarding the identification of bovine animals for sale or shipment to slaughter.

Clarifying, in a note, that if an animal dealer or trucker hauls bovine animals or swine direct to slaughter or to a slaughter sale held at a licensed market, an official backtag is adequate identification for the animal.

Clarifying that for animal trucker records, the individual backtags do not need to be recorded for animals being moved from a licensed dealer or market direct to slaughter. Also, clarifying that the owner of each animal must be included in animal trucker records.

Waivers

Under current rule, DATCP may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing. DATCP may not waive a statutory requirement.

Public Hearings

DATCP held two public hearings on the proposed rule as follows:

- September 9, 2013, in Stevens Point.
- September 10, 2013, in Madison.

DATCP accepted written comments until September 24, 2013. One person attended and registered at the public hearing in Stevens Point and 14 people submitted written comments. The department received both general comments related to the rule as a whole and specific comments related to certain provisions within the rule. A summary of public hearing attendance and comments received can be found in Attachment 1.

DATCP's Rule Changes in Response to Public Hearings and Rules Clearinghouse Comments

DATCP made changes in response to comments received through public hearings and from the Legislative Council Rules Clearinghouse. The key changes are listed by topic based on the rule provisions affected:

- Farm-raised deer.

Official identification/eartags.

Comments requested that the department honor all federally acceptable tags as official identification and allow badger tags to continue to be used as official eartags for farm-raised

deer. There was a belief that badger tags were “grandfathered” and could continue to be used as official identification for farm-raised deer that have already been tagged.

The department made no change to the proposed rule based on this comment. The department does honor all federally acceptable tags as official identification. However, badger tags are not approved by the USDA as official identification unless the tag has a USDA shield. The badger tag does not have a USDA shield; therefore the tag may be used as the second identification but not as the official identification.

Comments requested clarification in the rule that farm-raised deer keepers have until December 31, 2015, unless the farm-raised deer keeper conducts a whole herd tuberculosis test prior to that date, to comply with the following new rule requirements:

- Requiring that farm-raised deer have two identifications.
- Applying two identifications to their farm-raised deer moved between two or more locations of a single registered herd.

The department made no change to the proposed rule based on this comment. The rule does allow farm-raised deer keepers until December 31, 2015, to conduct a physical herd inventory. This deadline will provide reasonable time for farm-raised deer keepers to comply, and will allow them to complete a herd inventory at the same time they would perform whole herd testing for tuberculosis, which is done every three years. This would also be a convenient time for farm-raised deer keepers to apply the second identification to farm-raised deer that is now required in federal regulations and administrative rule. However, when moving either to or from a herd, farm-raised deer will need to have the 2 identifications applied by the time they are moved. This applies to farm-raised deer moved between two or more locations of a single registered herd (see s. ATCP 10.54 (1) (c), Wis. Admin. Code). Also, natural additions to the herd must have 2 identifications by 12 months of age. The department is not delaying the effective date for applying a second identification when deer are moved, between herds or separate locations for one herd, because the animals will be handled during the move, providing the perfect opportunity to apply the required secondary identification.

Disposition of deer.

Comments requested that the requirement to keep a record of the disposition of the deer carcass, regardless of whether the carcass leaves the premises, be removed, if the requirement applies only to deer and not to other livestock industries.

The department made no change to the proposed rule based on this comment. There are other areas in administrative rule that require the reporting of animal disposition. See ss. ATCP 10.22 (10) (d) 9. c., 12.06 (1m) (i), and 12.06 (1s) f., Wis. Admin. Code.

The disposition of the deer carcass is required because if a death is determined to be due to a disease, the department may need to know what happened to the carcass to determine where the disease may have spread.

CWD testing of farm-raised deer on hunting preserves.

Comments requested that a hunting preserve only be required to send a CWD test result to a hunter upon request or if the test is positive.

This recommendation was incorporated into the final rule draft.

Comments requested that the number of farm-raised deer killed on a hunting preserve tested for CWD be reduced from 50% to 25%.

The department made no change to the proposed rule based on this comment. Since August 1, 2012, current rule has required 50% CWD testing for all farm-raised deer over 16 months of age killed on a hunting preserve that is not enrolled in the CWD herd status program. Prior to that date, the rule required 100% CWD testing. Four of the ten positive CWD farm-raised deer herds in Wisconsin were hunting preserves. Many hunting preserves started their business by purchasing wild deer from DNR. Since CWD exists in the wild deer herd in Wisconsin, DATCP believes that there is still some risk that CWD may exist on a hunting preserve and that reducing testing to 25% would not be reasonable at this time. Wisconsin's history of finding CWD in wild deer continuously over the past 11 years, and a proven strong historical link between preserves with CWD positives and their initial captive deer coming from wild deer sources cannot be ignored when setting testing requirements for farm-raised deer.

Approved CWD test samplers.

Comments requested that once a person is approved to take CWD test samples, he or she should not have to take test sample training every five years. Also, it was suggested that the \$50 fee charged for the training should be eliminated.

The department made no change to the proposed rule based on this comment. Establishing training requirements for certain individuals to be qualified to collect CWD test samples is a new provision in rule and is consistent with the tuberculosis testing and control requirements under s. ATCP 10.13, Wis. Admin. Code. The tuberculosis testing and control provision requires veterinarians to complete training every five years and those veterinarians must pay \$50 for that training. Attending training every five years is necessary to ensure qualified samplers are up to date with the best techniques and emerging issues regarding farm-raised deer.

Comments requested that the requirement that only a veterinarian may submit a CWD test sample to a lab be eliminated. Commenters argued that the newly trained persons who collect

CWD test samples should be able to submit to the labs directly as some veterinarians won't submit samples taken by other people. Also, some veterinarians charge for submission.

The department made no change to the proposed rule based on this comment. Labs do not wish to accept samples from individuals that may not follow appropriate processes, necessitating changes in lab procedures and making them less efficient. Veterinarians already have accounts established with labs and use them routinely. If the CWD sample collectors can't get their veterinarian to submit a sample, they can contact DATCP for reference to another qualified veterinarian. There are more than 200 qualified veterinarians who sample for CWD throughout Wisconsin. Further, there will always be some type of submission charge that will be charged by a veterinarian for their service.

Hands-on inventory.

Comments suggested that the rule went beyond the federal regulations by requiring a hands-on inventory be conducted every three years. Commenters also stated the federal law specifies a visible inventory is sufficient with one visible identification.

The department made no change to the proposed rule based on this comment. The rule does not require a hands-on inventory. Federal regulations (and the proposed rule) require a complete physical herd inventory, with verification, to reconcile all animals and identifications. Federal regulations also require that a veterinarian must safely be able to read *all* identification.

Rule should match federal regulations.

Comments suggested that the rule should match federal requirements. For example, federal regulations exempt non-susceptible species such as reindeer and fallow deer from having to be tested for CWD. Therefore, the argument indicates, the state should also exempt these species from testing.

The department made no change to the proposed rule based on this comment. DATCP has chosen to test all species of cervids because of the federal changes over the years. Originally, federal regulations required only "susceptible species" of cervid to be tested for CWD. These species included only white-tailed deer and elk. Then moose, sika and red deer were added to the list. The department includes all species of deer as testable, so the rules do not have to be changed every time the federal government adds a new species to their list.

Intrastate movement of farm-raised deer.

Comments requested that the rule create an intrastate program requiring fewer regulations (such as requiring only 1 official identification) for those wishing to move farm-raised deer intrastate but not out of the state of Wisconsin.

The department made no change to the proposed rule based on this comment. Creating and regulating two programs (intra- and interstate) would be difficult for the department and confusing for farm-raised deer keepers. If a farm-raised deer keeper is on the CWD intrastate program, he or she may sell a deer to an CWD interstate program, compromising that herd's CWD status. This could jeopardize Wisconsin's ability to move farm-raised deer interstate.

Double fencing white-tailed deer.

Although no comments were received regarding this topic, it should be noted that farm-raised deer keepers that have white-tailed deer, choose to no longer enroll in the CWD herd status program, and have less than 80 acres will have to meet DNR fencing requirements. Currently, under s. NR 16.45 (2), Wis. Admin. Code, no person may maintain a perimeter fence that encloses less than 80 acres that contains farm-raised white-tailed deer unless the deer farm is enrolled in the CWD herd status program or the farm-raised deer are enclosed by a double perimeter fence or solid perimeter fence meeting specific requirements.

Some farm-raised deer keepers have indicated that because of the new federal/state rule requirements, they no longer want to be enrolled in the CWD herd status program. If these farm-raised deer keepers leave the program, they will be required to meet current DNR double/solid fencing requirements.

The department has been working with DNR to encourage it to provide flexibility to small deer farms that no longer wish to participate in the CWD herd status program but cannot afford to comply with the double/solid fencing requirement under DNR. It is hoped that DNR will provide alternative requirements, so farm-raised deer keepers that leave the CWD program will not have to double/solid fence.

- Swine.

Comments supported the rule provision requiring the porcine reproductive and respiratory syndrome (PRRS) status on the CVI of imported swine. In addition, comments suggested adding porcine epidemic diarrhea (PED) virus status to the CVI, as well as to the list of swine diseases that must be reported to the department within 10 days.

The department accepted the recommendations and the rule now requires the PED status to be added to the CVI of imported swine and adds PED to the list of swine diseases that must be reported to the department within 10 days, under Appendix B to the rule.

- Fish.

One comment proposed allowing the use of iodine disinfection as equivalent to VHS testing when moving wild source VHS-susceptible fish onto a type 2 fish farm.

There is no approved method for administering iodine disinfection that has been shown to limit the spread of disease. It is not a method approved by the federal bureau and, therefore,

cannot be allowed in Wisconsin rule. If a method is approved by the federal bureau, the method will be incorporated into administrative rule.

- John's disease.

The department modified language requiring a herd agreement to be between the owner and the department to clarify that a herd owner may change veterinarians who vaccinate against John's disease without having to complete a new herd agreement.

DATCP response to Clearinghouse comments:

Many of the comments and suggestions made by the Legislative Council Rules Clearinghouse were technical drafting changes. The department accepted those changes and modified the final draft rule accordingly. Additional Clearinghouse comments and the department's response, include:

- In its comment 2.f., the Clearinghouse questioned the "considerable amount of material" in the definition of "official individual identification."

The department repealed and recreated the definition, not to add extensive material (extensive material was already there), but to more clearly and cleanly show the result of organizing the type of identification required, by animal species, and updating the type of identification required, to conform to new federal requirements. We think the new format will provide both animal markets and livestock owners with a quick reference – one place to look to determine what will be acceptable ID, rather than perusing the entire rule to locate what is acceptable ID for swine or horses or cattle.

- In its comment 2.g., the Clearinghouse suggested that the note regarding "net salvage value" following the definition of "salvage value" was substantive in nature and the department should consider incorporating the material elsewhere in the rule.

The department accepted this recommendation and created a separate definition of "net salvage value."

- In its comment 2.h., the Clearinghouse questioned the need to renumber existing portions of s. ATCP 10.01 (105) and suggested that we simply add the new material as the next paragraph in the list (par. (e)).

The department elected to make no changes as a result of this question. Subsection (105) lists acceptable tuberculosis tests and the current list of tests is concluded with pars. (c) and (d), two provisions rarely used. We felt it would be clearer to the public to insert the new acceptable TB test for farm-raised deer as the new par. (c), following right after the currently acceptable TB test for farm-raised deer specified in par. (b).

- In its comment 2.1., the Clearinghouse suggested that if the department creates a definition of “new world camelid,” the term should be used in the rule text rather than listing the animals that the term defines.

In reviewing the administrative rule, the term “South American camelid” is already currently defined in s. ATCP 10.01 (91). Therefore, that term, which includes the same list of animals, was used in s. ATCP 10.85 and the unneeded definition was removed.

- In its comment 5.a., the Clearinghouse requested elaboration on the approval process for blanket import permits issued by the department when not all required information is known at the time of the permit request (hence, the name “blanket import permit). The Clearinghouse questioned whether the “approval process” should be codified at this time.

The department did not make any changes in s. ATCP 10.07 (2m) (b) 3., in response to this comment. First, there is a need in the livestock industry for this type of permit because, at times, when a farmer intends to buy, he just won’t know exactly what, and from whom, at a time when the department is open for a more “normal” import permit process with all the obligatory information available. We have included in the provision the basic situations for which such a permit would be issued, but we can’t envision every possibility. The use of the phrase “other circumstances” allows the department to use its discretion when new, unforeseeable situations arise.

Currently under administrative rule, an animal import permit is conditioned upon compliance with import requirements promulgated in administrative rule, and the department has discretion to invalidate any import permit that does not meet rule requirements. The department should have the same discretion to invalidate a blanket permit as it does a standard import permit. Therefore, the last two sentences under s. ATCP 10.07 (2m) (c), stating, “Noncompliance may invalidate a permit. A permit is not evidence of compliance.” will remain. They are already stated in s. ATCP 10.07 (2) regarding regular import permits.

- In its comment 5.b., the Clearinghouse asked what “other information” would the department require under s. ATCP 10.07 (2m) (d) 3., and should it be included in the rule?

This is a common addition to department rule provisions regarding license and permit applications. See ss. ATCP 10.61 (6) (d) and 10.655 (3) (g), for example.

- In its comment 5.c., the Clearinghouse asks who determined whether funding was available for reimbursement to farmers in the Johnne’s program and whether the funding is tied to a specific appropriation.

The department added language in s. ATCP 10.19 (1) (intro.), to clarify the department authority to award grants for this purpose and created a new note to clarify that although the legislature has appropriated funds for these grants at times, there is currently no funds in the appropriation.

Small Business Regulatory Review Board Report

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

Effects on Small Business

The majority of these rule modifications are technical and have no fiscal effect or have already been implemented by the division due to prior changes in state law. Many of the rule modifications will ease program requirements and may reduce costs to small business. The rule modifications that may have a greater economic impact on small business are changes required to align with federal USDA regulations relating to farm-raised deer enrolled in the CWD herd status program. The Final Regulatory Flexibility Analysis, which will be filed with this rule, provides a more complete analysis of this issue.

Environmental Impact

This rule will not have an effect on the environment.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The United States Department of Agriculture (USDA) administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state.

Federal CWD Herd Certification Program requirements include individual animal ID's, regular inventories, and testing of all cervids over 12 months that die for any reason. Interstate movement of cervids will be dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status.

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

The proposed rules will align state rule relating to CWD and identification requirements for traceability with approaches used by the federal government. These changes will allow for the continued interstate movement of farm-raised deer and other livestock.

Comparison with Rules in Adjacent states

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

States may apply to become an Approved State Herd Certification Program (HCP) if they meet (or exceed) national program requirements. Cervid owners can enroll and participate in their Approved State CWD HCP. Interstate movement of animals is dependent on a state's participation in the program, maintaining compliance with program requirements, and having achieved herd certification status. Wisconsin and Minnesota have approved CWD HCPs by the federal Animal and Plant Health Inspection Service (APHIS). Illinois, Iowa and Michigan have conditional approval. Therefore, all are implementing federal requirements and thus are similar.

To meet federal CWD HCP requirements for farm-raised deer to move interstate, a state program must meet approved forms of official identification. Minnesota, Illinois, Iowa and Michigan have applied for their programs to be accepted to meet the federal traceability identification requirements in order to move livestock interstate. Therefore, all are implementing federal requirements and should be similar to Wisconsin.

Summary of Factual Data and Analytical Methodologies

This proposed rule does not depend on any complex analysis of data. This proposed rule makes minor, technical changes as well as changes to comply with USDA regulations relating to traceability and the CWD herd certification program in order to facilitate Wisconsin livestock in interstate commerce.

Standards Incorporated by Reference

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

- The “National Uniform Eartagging System” developed by the federal bureau in veterinary services memorandum no. 578.12, revised March 15, 2011.