



State of Wisconsin
Governor Scott Walker

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

DATE: January 8, 2016

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary *Ben Brancel*
Paul McGraw, DVM, Administrator, Division of Animal Health *Paul McGraw*

SUBJECT: **Animal Disease Control and Movement, and Animal Markets, Dealers and Truckers; Final Draft Rule Amending chs. ATCP 10 and 12, Wis. Admin. Code**

TO BE PRESENTED BY: Dr. McGraw

REQUESTED ACTION:

At the January 19, 2016, Board meeting, the Department will ask the Board to approve a final draft rule (copy attached) related to animal disease control and movement, and animal markets, dealers and truckers, under Chs. ATCP 10 and 12

SUMMARY:

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

1. Definitions and terms.

The proposed rule makes the following changes to definitions and terms:

Replaces the phrase, "buying or selling" with "trading in" under the definition of animal market to match the statutory definition under s. 95.68 (1) (ag), Stats.

Adds a definition of "trading in livestock or wild animals" to clarify that animal markets trade, buy, sell or swap livestock or wild animals.

Changes the spelling of "feedlot" to "feed lot" to match statutory language.

Modifies the definition of "Brucellosis and Tuberculosis uniform methods and rules" and "Johne's disease national program standards" to clarify that official individual identification requirements of any animal tested for these diseases must meet the requirements specified under ch. ATCP 10 and not the identification requirements specified under the uniform methods and rules or national program standards.

Changes the definition of "farm-raised deer" under ch. ATCP 10 to match the definition of "farm-raised deer" under ch. ATCP 12.

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Changes the term, “federally approved livestock import market,” to “federally approved livestock marketing facility.”

Changes the definition of “individual” under ch. ATCP 12 to match the definition of “individual” under ch. ATCP 10.

Modifies the definition of “official individual identification” to allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Modifies the definition of “slaughtering establishment” under ch. ATCP 10 to match the definition of “slaughtering establishment” under ch. ATCP 12.

Repeals the definition of “tuberculosis non-modified accredited state” as the term is not used throughout ch. ATCP 10 and is incorrectly defined. The definition for “tuberculosis non-modified accredited state” is the correct definition for “tuberculosis modified accredited state.”

2. Disease testing/reporting.

The current rule requires the reporting of certain diseases to the Department within specified timelines. The proposed rule requires the reported information include the species, age, sex, and breed of the animal afflicted with the disease, the address of the farm where the afflicted animal is located, and the premises code, if any.

3. Official individual identification.

Current rules specify approved individuals who may apply official individual identification to animals for different purposes and requires these individuals to keep a record of any identification that has been applied. These requirements are interspersed throughout the rules under specific subsections.

The proposed rule makes these identification requirements more transparent by creating a general section relating to the application and record keeping requirements for those authorized to obtain and apply official individual identification. The proposed rule makes the identification requirements and record keeping requirements consistent. The proposed rule also makes clear that official individual identification does not need to be applied if all required individual identification is already applied to the animal.

4. Tuberculosis testing and control.

Current rules specify tuberculosis testing requirements, including who may perform tests, test result reporting, and movement restrictions, under sections relating to bovine animals and farm-raised deer. The proposed rule creates a general tuberculosis testing and control section that pertains to any animal being

tested for the disease and updates the tuberculosis provisions of bovine animals and farm-raised deer, for consistency of all required tuberculosis information.

The proposed rule requires a person who performs a tuberculosis test on an animal, or collects a sample for any other tuberculosis test on an animal, to complete Department-approved training on tuberculosis testing or sample collection within 5 years prior to the test date.

The proposed rule deletes the requirement that a premises be cleaned and disinfected after an animal has been identified as a tuberculosis reactor. The proposed rule provides that cleaning and disinfecting should be done after tuberculosis has been confirmed in an animal identified as a reactor in accordance with the federal Tuberculosis Uniform Methods and Rules.

The proposed rule makes consistent (according to the Federal Tuberculosis Uniform Methods and Rules) the number of days the Department may for good cause extend a deadline (15 days) for sending an animal that is a tuberculosis reactor to slaughter.

5. Bovine import tuberculosis requirements.

The current rule requires any bovine animal imported into Wisconsin to test negative on a pre-import tuberculosis test, with some exceptions, including that the bovine originates from an accredited tuberculosis-free state or nation that accepts bovine animals from Wisconsin without a prior tuberculosis test. The proposed rule allows bovine animals from an accredited tuberculosis-free state or nation to be imported without a prior tuberculosis test, regardless of whether that state or nation requires a tuberculosis test from Wisconsin animals being imported to that state or nation.

6. Certificates of veterinary inspection (CVI).

The current rule allows a CVI to be issued on a form provided or approved by the Department, the United States Department of Agriculture (USDA) federal bureau, or the state in which the certificate is issued. The proposed rule only allows the CVI to be on a form provided or approved by the Department. The Department will provide, on its web site, a list of CVI forms it has not approved.

The current rule requires certain information to be provided on a CVI. The proposed rule makes clear that this information needs to be verified as accurate by the veterinarian issuing the CVI.

The current rule states that a CVI is valid for 30 days from the date of inspection, unless additional import requirements must be met and the state veterinarian establishes a different expiration date. No person, receiving a notice of additional import requirements, may import an animal into Wisconsin without meeting those requirements. The proposed rule extends this authority to movement of animals in Wisconsin, allowing the state veterinarian to specify a different expiration date for the CVI if the state veterinarian

determines, based on an epidemiological evaluation of current disease risks in a herd or place of origin, that a different expiration date is necessary.

7. Federally approved livestock marketing facility.

Current rules uses the term, "federally approved livestock import market." The proposed rule updates the term to "federally approved livestock marketing facility" throughout chs. ATCP 10 and 12.

The proposed rule also allows a federally approved livestock marketing facility to be a federally approved tagging site if that facility meets certain requirements and has an agreement with the USDA federal bureau.

8. Application information.

The current rule requires applicants, for a permit to have an approved import feed lot, intermediate livestock handling facility, or foreign equine import quarantine station and to provide the location of the facility by county, town, section and sometimes fire number. The proposed rule requires applicants to provide the facility's location by address and county, or if the address is not available, the county, town, and section.

9. Slaughter swine identification.

The current rule requires swine going to slaughter to be identified with an official swine backtag or other approved slaughter identification, unless the swine already bears an official individual identification or slaughter identification. The proposed rule allows the use of a premises identification number (PIN) eartag as an approved form of slaughter identification for swine.

10. Equine infectious anemia.

The current rule requires any equine animal that is purchased, sold, or otherwise changed ownership to test negative for equine infectious anemia within 12 months. The proposed rule clarifies that the equine animal must test negative for equine infectious anemia within 12 months, from the date the blood was drawn for the test to the date of purchase, sale, or transfer.

11. Farm-raised deer (FRD).

Commingling with bovine animals. The current rule allows FRD to commingle with bovine animals on the same premises or in the same building, enclosure, or vehicle so long as neither is moved off the premises, except to slaughter. The proposed rule clarifies this provision so that FRD may be kept on the same premises as bovine animals, without having to go to slaughter, if the two species are medically separated. The Division of Animal Health (Division) must inspect the location to determine whether the herds are medically separated, before the FRD herd is registered and, per current rule, the FRD keeper (FRDK) must

pay an inspection fee of \$200 for each day needed to complete the inspection. No inspection is required for the renewal of an existing herd registration once the Division has previously inspected the herd premises.

Single registered herd kept at two or more locations. The current rule allows a single registered herd to be kept at two or more locations so long as the entire herd, and all herd locations, are actively enrolled in the chronic wasting disease herd status program. The provision allows a FRDK to move FRD between locations, without a CVI, as long as each of the deer have two individual identifications, one official and the other either official or unique to the herd, and the registrant keeps a record of the movement. The proposed rule provides for additional flexibility by allowing the single registered herd, kept at two or more locations, to be either actively enrolled in the Chronic Wasting Disease (CWD) Herd Status Program (HSP) or not enrolled in the program at all. Regardless of the herd's enrollment, the deer must still have two individual identifications as described above and the registrant must keep a record of deer movement. The proposed rule adds that the name and address of the person who move any of the deer, if other than the owner, be included in the record of movement, consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Separately registered herds kept at the same location and not medically separated. The current rule allows FRD from two or more herds, covered by separate registration certificates, to be kept at the same location. If the FRD are not in medically separated herds, the deer are collectively treated as a single herd for purposes of disease control and movement. The deer may be moved between any of the herd locations identified in any of the herd registration certificates as long as all of the herds, and all herd locations, are actively enrolled in the CWD HSP program and each of the deer are identified with two individual identifications, one official and the other either official or unique to the herd. The proposed rule provides for additional flexibility by allowing that all of the herds, and all herd locations, be either actively enrolled in the CWD HSP program or not enrolled in the program at all. Regardless of the herd's enrollment, each of the deer must still have two individual identifications as described above. The proposed rule also makes clear that deer movement may occur without a CVI if the registrant keeps a record of deer movement that includes the two individual identifications of each deer plus the species, age, and sex of the deer; the date of movement; the name and address of the person who had custody of the deer during movement, if other than the owner; and the registration numbers of the herd from which, and to which, the deer was moved. The proposed rule specifies this record of movement information be consistent with all other FRD movement requirements in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Record keeping requirements. Current rules specify record keeping requirements regarding deer movement, including escapes and slaughter, under various sections of ch. ATCP 10. Some of the information varies slightly depending on where it is referenced in the chapter. The proposed rule makes all record keeping requirements regarding FRD movement consistent throughout the chapter. The proposed rule also requires that a record be kept regarding each known natural addition to the herd, including the month and year of birth, and sex of the deer, if determined.

Escaped FRD. Current rules specify record keeping requirements for escaped FRD throughout ch. ATCP 10. The proposed rule makes all record keeping requirements for escaped deer consistent throughout the chapter. The proposed rule also makes clear that it is the FRDK's responsibility to test any deer that escapes from the FRDK's herd for chronic wasting disease. The proposed rule expands the number of hours that may elapse from the time a deer escapes from a herd to the time it is returned, from 72 to 120, before the herd loses any tuberculosis or brucellosis certification or CWD herd status. In a wild deer disease control area escaped deer continue to be required to be returned to the herd within 24 hours after the escape.

FRD hunting preserves. The current rule uses the term "hunting preserve." The proposed rule changes that term to "hunting ranch" to more accurately describe the facility.

The proposed rule also eliminates the requirement that an applicant for a hunting ranch certificate provide a list showing, for each FRD on the hunting premises that bears any attached or implanted identification, each type of identification and each associated identification number that the FRD bears.

The current rule requires all non-natural additions to a hunting ranch have one visible official identification (eartag) and one microchip implanted at the base of the ear or tail of the deer. The proposed rule makes FRD identification consistent with requirements throughout by requiring these deer to have two individual identifications, one official and the other either official or unique to the herd. One of the identifications must be visible. A microchip is no longer required to be used, but may be used as an official individual identification if it is federal bureau and Department approved, or is as an identification that is unique to the herd.

The current rule requires any person that holds a hunting preserve certificate to keep records, including the name and address of the person who collected the test sample for chronic wasting disease. The proposed rule eliminates the requirement that the name and address of the person who collected the test sample for chronic wasting disease be recorded.

CWD testing. Current rules specify CWD testing requirements for FRD herds enrolled in the CWD herd status program and for herds that are not enrolled in the program.

Current rules require a FRDK, whose herd is enrolled in the CWD HSP, to have a CWD test performed on each (100%) of the following deer that are at least 12 months of age:

- A FRD that dies or is killed while kept by that person.
- A FRD that the person ships directly to a slaughtering establishment.

The proposed rule makes clear that escaped deer that die or are killed must be tested for CWD, as is required for escaped deer.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is enrolled in the CWD herd status program for at least 5 years, by requiring 25%, rather than 100%, of deer sent to slaughter be tested for CWD. A FRDK whose herd has less than 5 years of status in the CWD herd status program must continue to CWD test 100% of any FRD sent to slaughter.

Current rules require a FRDK whose herd is not enrolled in the CWD HSP to have a CWD test performed on all of the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- All (100%) FRD that are killed intentionally.
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is not enrolled in the CWD herd status program by requiring CWD testing for the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- Fifty percent of FRD that are killed intentionally
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes, and whose remains are testable, on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule does not set any specific standard as to whether a FRD's remains are testable. After an animal dies, the body begins to decompose at a rate that corresponds to the weather, ambient temperature, and other elements. Decomposition will affect the ability of the lab to detect disease. Testability will have to be determined on a case-by-case basis by the FRDK.

Test samples collected for CWD. Current rules require a person who collects a CWD test sample from a FRD to meet certain requirements. The proposed rule adds the requirement that the collector label the test sample with the official individual identification or backtag number of the animal being tested.

Verification of CWD test results. The proposed rule creates a provision allowing a FRDK to verify the identity of a FRD that was reported as being positive for CWD, through genetic testing in a procedure approved by the Department. Genetic testing is currently allowed, but not in rule.

CWD herd quarantine. The current rule requires a FRD herd to be quarantined if one of the deer in the herd tests positive for CWD. The proposed rule specifies a herd may be quarantined for up to five years from the date the last FRD in the herd tested positive for CWD. The proposed rule also makes clear that, based on the epidemiological evaluation, the Department may quarantine a herd or individual FRD traced back or forward from the herd in which a FRD tested positive for CWD.

CWD HSP. The current rule specifies requirements for enrollment in the CWD HSP. Enrollment requires the applicant to provide certain information including the number of FRD at least one year old and the number less than one year old. The proposed rule repeals this requirement, as current rule requires the applicant to provide the month and year of birth for each FRD.

The current rule requires a FRDK whose herd is enrolled in the CWD HSP to provide a list of each known natural addition to the herd, including the month and year of birth, and sex, if determined, on the annual census. For consistency, the proposed rule adds this requirement to the general record keeping requirements of a FRDK with a herd enrolled in the CWD HSP.

FRD identification. The current rule requires a veterinarian to identify any FRD with an official individual identification unless the FRD already bears all required individual identification whenever he or she vaccinates, tests, or collects samples from a FRD. The proposed rule requires the veterinarian to record the official individual identification of the FRD on the vaccination, test or sample.

FRD imports. With some exceptions, the current rule requires that FRD imported into Wisconsin have a CVI. To be consistent with requirements for intrastate movement of deer, the proposed rule requires that the following statements be included on the CVI for deer imported into this state:

- All cervids identified on this certificate originate from a herd that has shown no clinical signs of CWD in the past 12 months.
- All cervids identified on this certificate originate from a herd that is adequately separate from any wild deer herd known to be infected with CWD.

Double protective barriers. In some cases, FRD herds must be enclosed by a double protective barrier. The barrier may be either a double fence that meets certain criteria or a solid barrier that is at least 8 feet high. The current rule requires the double fence to be 8 feet high and the two fences to be at least 10 feet but not more than 16 feet apart. The proposed rule modifies the minimum distance allowed between the two fences to be 8 feet, rather than 10 feet, to align with the Department of Natural Resources (DNR) rule, s. NR. 16.45, Wis. Admin. Code.

12. Fish farms.

Current rules specify fees charged to applicants who apply for a license or registration after the license or registration has expired or after it has been determined that the operator of a facility operated without a

license or registration. The proposed rule adds these specified fees to fish farm registrations to be consistent with requirements for other registrations and licenses.

The current rule allows some fish or fish eggs to be imported into Wisconsin without having an import permit. The current rule could be interpreted to require that import records be kept only if the person importing fish has an import permit. The proposed rule makes clear that import records must be kept regardless of whether the person was required to have an import permit.

The current rule allows fish to be reintroduced into their original wild source without a health certificate if certain criteria are met, including issuance of a permit by the state veterinarian or designee and written approval from the DNR. The proposed rule eliminates the requirement that a permit be issued by the state veterinarian or designee and requires specific records of any movement be kept by the DNR for at least five years.

13. CVI not required.

Current rules allow certain animals, including goat, sheep, swine, equine, and bovine to cross the Wisconsin state border without a CVI if the animal is:

- Imported directly to a veterinary facility for treatment, provided that the animal is returned to its place of origin immediately following treatment and there is no change in ownership of the animal.
- Returned directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the animal was taken directly to the veterinary facility and there was no change of ownership.

The proposed rule applies these provisions to dogs and cats.

14. Elephant imports.

Current rules specify requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants and requires an imported elephant to have:

- An import permit.
- A valid CVI that includes the import permit number and a report of a negative tuberculosis test.
- At least one negative tuberculosis test, approved by the Department, conducted not more than 365 days prior to the import date (except for an elephant imported directly to an institution accredited by the association of zoos and aquariums).

- An owner statement that the elephant imported into this state has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import. If the elephant has been exposed to this disease within 5 years, the person may not import the elephant unless the elephant has met additional tuberculosis testing requirements specified by the state veterinarian.

15. Appendix B.

Appendix B to ch. ATCP 10 specifies diseases that must be reported within 10 days. The proposed rule amends the Appendix to match federal requirements.

16. Animal markets, dealers and truckers

Current rules establish licensing requirements and responsibilities of animal markets, animal dealers and animal truckers.

The proposed rule makes clear when a license is not required, such as the following:

- A farm operator does not need an animal market license to have an occasional sale buying or exchanging livestock solely for dairy, breeding, or feeding operations on that farm or who sells only livestock produced or raised on that farm.
- A person does not need an animal trucker license to transport livestock or wild animals solely as an employee of a person who owns those animals.

The proposed rule eliminates the requirement that a Class B animal market, when applying for an animal market license, identify the dates during the previous license year, if any, on which the person conducted livestock sales at the animal market.

The proposed rule provides cross-references to additional fees that may apply to a person applying for an animal market and dealer trucker license.

The proposed rule makes clear that the Department may deny, suspend, or revoke an animal market or animal dealer license if the applicant is in violation of 9 CFR Part 201, relating to registration or bonding requirements of the Federal Packers and Stockyards Act.

The proposed rule makes clear that an animal dealer or animal market operator must immediately apply and record an animal's official individual identification, if the animal does not already have it, when that animal was backtagged to go to slaughter but did not go to slaughter.

The proposed rule repeals the requirement that an animal market operator, animal dealer, and animal trucker record the livestock premises code of the premises from which an animal was received and the livestock premises code of the premises to which the animal is shipped or delivered.

The proposed rule prohibits the use of electric prods on neonatal or other baby animals. The proposed rule also prohibits hitting these animals with any type of solid object that may cause injury, pain, or stress to the animal.

17. Waiver.

The proposed rule allows the Department to grant a waiver from the requirements under ch. ATCP 12, if it receives a written request for the waiver and the Department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12, and will not conflict with state law.

Public Hearings

The Department held a public hearing on this rule on December 21, 2015, in Madison, Wisconsin. Written comments were accepted until December 28, 2015. One person attended the hearing but did not testify. No one submitted written comments.

Changes from the Hearing Draft

No changes were made based on public comment as no comments were received. Minor changes were made based on Legislative Council Clearinghouse comments. All of the Clearinghouse's recommended changes were made. Other changes were made based on discussions with Federal USDA staff, other interested parties, and Division of Animal Health staff (see Attachment 1).

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

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

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

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

The proposed rule eases some requirements for those farm-raised deer keepers that have herds enrolled in the CWD HCP while still meeting federal requirements.

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 other Midwest states are similar to Wisconsin, as all are based on well-established federal standards.

States may apply to become an Approved State 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, Illinois, Iowa, Michigan and Minnesota have approved CWD HCPs by the USDA Animal and Plant Health Inspection Service (APHIS). Therefore, all are implementing the federal requirements and thus are similar to Wisconsin rules.

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

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 based on the Division's review and use of the rule, as well as changes made based on discussions with the farm-raised deer industry and other interested parties.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The majority of these proposed rule changes are to make the requirements throughout the rule consistent.

The most significant rule changes (and fiscal impact) relate to FRDKs enrolled in the Wisconsin CWD HCP. Division staff met with representatives of the FRDKs industry in March 2015 to discuss suggested changes to the rules relating to FRD and how to ease some of those requirements while still meeting federal regulations. Many of the small business fiscal effects were developed from that meeting, as well as from discussions with individual FRDKs

Effect on Small Business

The majority of these rule modifications are technical and have no or minimal fiscal effect. Many of the rule modifications will ease program requirements and may reduce costs to small business.

The entities that may be affected by this rule modification include the following:

1. Veterinarians.

Upon the effective date of the rule, veterinarians and authorized employees or agents of the Department or the federal bureau will be required to take Department-approved training on tuberculosis testing and sample collection within 5 years prior to testing an animal for tuberculosis. Such training is already required of veterinarians testing FRD for tuberculosis. This will be a new requirement for veterinarians who choose to test animals for this disease. Because this training is provided free of charge, there will be no cost to these veterinarians.

2. Farm-raised deer keepers (FRDKs).

CWD testing. FRDKs who have herds enrolled in the CWD herd status program with at least 5 years of status may realize a significant cost savings, as only 25% of their FRD aged 12 months or older shipped directly to slaughter must be tested for CWD. This change is significant as the current rule requires 100% of these FRD to be tested for CWD when sent to slaughter.

FRDKs whose herds are not enrolled in the CWD herd status program may realize a significant cost savings as only 50% of their FRD aged 16 months or older that are killed intentionally, except after escape, must be tested for CWD. This change is significant as the current rule requires 100% of these FRD to be tested for CWD.

It is estimated that hiring a veterinarian to collect CWD test samples costs approximately \$75 per deer. Depending on the number of deer tested at one time, this cost may be lower. This cost will also be lower if the FRDK has a qualified employee or immediate family member that can collect the CWD test samples. Because the actual cost to test a deer for CWD is unknown, total cost savings are indeterminate.

Hunting preserves. Changing the term hunting "preserves" to hunting "ranches" was requested by the farm-raised deer industry. The fiscal effect of this terminology change is unknown but is presumably low, as it is sought by the FRD industry.

Commingling FRD with bovine animals. Current rules allow FRD and bovine animals to be commingled only if those animals move to slaughter.

The proposed rule makes clear that FRDKs who wish to keep deer and bovine animals at the same location without having to move them to slaughter must have fencing and facilities adequate to maintain medical separation at all times. Medical separation includes double fencing and bio-security procedures, including procedures to prevent the commingling of farm-raised deer with bovine animals.

A FRDK who chooses to keep FRD and bovine animals at the same location will incur costs to purchase additional fencing and separate equipment for the FRD and bovine animals. There is also a one-time cost of \$200 for each day needed for Department staff to complete the medical separation inspection of the location.

It is unknown how many FRDKs wish to keep FRD and bovine animals at the same location. Therefore, these costs are indeterminate.

3. Wisconsin importers of elephants.

The current rule specifies requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants. The current import requirements for elephants are listed under wild animal and circus, rodeo, and menagerie animal imports. The proposed elephant import requirements incorporate several of those provisions into the rule. The new requirement that the owner of an elephant provide a statement that the elephant has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import should not result in a significant cost to the importer.

Next Steps

If the Board approves this final draft rule, the Department will submit the final draft rule to the Governor's Office of Regulatory Compliance. If the governor's office approves the final draft rule, the Department will then submit the rule to the legislature for legislative committee review. If the legislature has no objection to the rule, the Department secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect on the first day of the third month following publication.

**Summary of Public Comments
Clearinghouse Rule 15-092
Chapters ATCP 10 and 12
Animal Disease Control, Animal Movement, and
Animal Markets, Dealers and Truckers**

Madison Hearing, 5 pm, December 21, 2015

<i>Name/Organization</i>	<i>Registered</i>	<i>Topic</i>	<i>Position</i>
None			

Written comments

<i>Name/Organization</i>	<i>Registered</i>	<i>Topic</i>
None		

Comments by Division of Animal Health (DAH) staff in response to discussions with Federal USDA staff or other interested parties

Tuberculosis testing and control

- The proposed rule requires a person who performs a caudal fold tuberculin test on an animal complete Department-approved training on tuberculosis testing within 5 years prior to the test date.

DAH staff suggest eliminating the term "caudal fold" tuberculin test as tuberculosis test training is not limited to that specific test and training is required for a person to perform any tuberculosis test.

The final rule replaces the term "caudal-fold" tuberculin test with "Tuberculosis test" as it is a defined term under s. ATCP 10.01 (105) and is a more inclusive term.

- The current rule defines "Tuberculosis test" under s. ATCP 10.01 (105) and lists tests that are included under the definition. One of those tests includes "A TB stat-pak screening test when used with a confirmatory secondary dual path platform test for farm-raised deer that are white-tailed deer, red deer, elk, fallow deer, or reindeer."

DAH staff stated that this language is incorrect due to the TB stat pak screening test no longer being commercially available, and should be modified.

The final rule modifies s. ATCP 10.01 (105) (c) as follows: "~~A TB stat-pak screening test when used with a confirmatory secondary~~ dual path platform test for farm-raised deer that are white-tailed deer, red deer, elk, fallow deer, or reindeer.

- The current rule bans the import of an M-branded bovine into this state unless it goes directly to slaughter.

The federal USDA has informed all states that rules cannot pre-empt federal law as it relates to the import of cattle directly from Mexico.

The final rule, under s. ATCP 10.22 (7m), has been modified to allow the import of an M-branded bovine into this state if it is imported directly from Mexico or goes direct to slaughter. If the bovine animal is imported from Mexico, the complete destination herd will be quarantined upon arrival of the animal and will remain quarantined until the imported animal is negative on a tuberculosis test conducted not sooner than 60 days after the date of import.

Farm-raised deer

- Current rule requires that a farm-raised deer herd registration application list any partial owners of the farm-raised deer listed. The rule also requires the official individual identification for each deer in which the owner has an ownership interest and the amount of that ownership interest, as a percentage or dollar value, be listed.

DAH staff have determined that as long as the deer are kept on a registered deer farm, the official identification and percent ownership when less than 50% is not critical information to be collected as part of a herd registration application.

The final rule still requires that partial owners be listed on the application, but has removed the requirement that official individual identification for each deer and amount of ownership interest, as a percentage or dollar value, be listed.

Wisconsin Department of Agriculture, Trade and Consumer Protection

Final Regulatory Flexibility Analysis

Rule Subject: Animal Disease and Movement and Animal Markets, Truckers and Dealers
Adm. Code Reference: ATCP 10 and 12
Rules Clearinghouse #: 15-092
DATCP Docket #: 14-R-13

Rule Summary

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

1. Definitions and terms.

The proposed rule makes the following changes to definitions and terms:

Replaces the phrase, “buying or selling” with “trading in” under the definition of animal market to match the statutory definition under s. 95.68 (1) (ag), Stats.

Adds a definition of “trading in livestock or wild animals” to clarify that animal markets trade, buy, sell or swap livestock or wild animals.

Changes the spelling of “feedlot” to “feed lot” to match statutory language.

Modifies the definition of “Brucellosis and Tuberculosis uniform methods and rules” and “Johne’s disease national program standards” to clarify that official individual identification requirements of any animal tested for these diseases must meet the requirements specified under ch. ATCP 10 and not the identification requirements specified under the uniform methods and rules or national program standards.

Changes the definition of “farm-raised deer” under ch. ATCP 10 to match the definition of “farm-raised deer” under ch. ATCP 12.

Changes the term, “federally approved livestock import market,” to “federally approved livestock marketing facility.”

Changes the definition of “individual” under ch. ATCP 12 to match the definition of “individual” under ch. ATCP 10.

Modifies the definition of “official individual identification” to allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Modifies the definition of “slaughtering establishment” under ch. ATCP 10 to match the definition of “slaughtering establishment” under ch. ATCP 12.

Repeals the definition of “tuberculosis non-modified accredited state” as the term is not used throughout ch. ATCP 10 and is incorrectly defined. The definition for “tuberculosis non-modified accredited state” is the correct definition for “tuberculosis modified accredited state.”

2. Disease testing/reporting.

The current rule requires the reporting of certain diseases to the Department within specified timelines. The proposed rule requires the reported information include the species, age, sex and breed of the animal afflicted with the disease, the address of the farm where the afflicted animal is located, and the premises code, if any.

3. Official individual identification.

Current rules specify approved individuals who may apply official individual identification to animals for different purposes and requires these individuals to keep a record of any identification that has been applied. These requirements are interspersed throughout the rules under specific subsections.

The proposed rule makes these identification requirements more transparent by creating a general section relating to the application and record keeping requirements for those authorized to obtain and apply official individual identification. The proposed rule makes the identification requirements and record keeping requirements consistent. The proposed rule also makes clear that official individual identification does not need to be applied if all required individual identification is already applied to the animal.

4. Tuberculosis testing and control.

Current rules specifies tuberculosis testing requirements, including who may perform tests, test result reporting and movement restrictions, under sections relating to bovine animals and farm-raised deer. The proposed rule creates a general tuberculosis testing and control section that pertains to any animal being tested for the disease and updates the tuberculosis provisions of bovine animals and farm-raised deer, for consistency of all required tuberculosis information.

The proposed rule requires a person who performs a tuberculosis test on an animal, or collects a sample for any other tuberculosis test on an animal, to complete Department-approved training on tuberculosis testing or sample collection within 5 years prior to the test date.

The proposed rule deletes the requirement that a premises be cleaned and disinfected after an animal has been identified as a tuberculosis reactor. The proposed rule provides that cleaning and disinfecting should be done after tuberculosis has been

confirmed in an animal identified as a reactor in accordance with the federal Tuberculosis Uniform Methods and Rules.

The proposed rule makes consistent (according to the Federal Tuberculosis Uniform Methods and Rules) the number of days the Department may for good cause extend a deadline (15 days) for sending an animal that is a tuberculosis reactor to slaughter.

5. Bovine import tuberculosis requirements.

The current rule requires any bovine animal imported into Wisconsin to test negative on a pre-import tuberculosis test, with some exceptions, including that the bovine originates from an accredited tuberculosis-free state or nation that accepts bovine animals from Wisconsin without a prior tuberculosis test. The proposed rule allows bovine animals from an accredited tuberculosis-free state or nation to be imported without a prior tuberculosis test, regardless of whether that state or nation requires a tuberculosis test from Wisconsin animals being imported to that state or nation.

6. Certificates of veterinary inspection (CVI).

The current rule allows a CVI to be issued on a form provided or approved by the Department, the United States Department of Agriculture (USDA) federal bureau, or the state in which the certificate is issued. The proposed rule only allows the CVI to be on a form provided or approved by the Department. The Department will provide, on its web site, a list of CVI forms it has not approved.

The current rule requires certain information to be provided on a CVI. The proposed rule makes clear that this information needs to be verified as accurate by the veterinarian issuing the CVI.

The current rule states that a CVI is valid for 30 days from the date of inspection, unless additional import requirements must be met and the state veterinarian establishes a different expiration date. No person, receiving a notice of additional import requirements, may import an animal into Wisconsin without meeting those requirements. The proposed rule extends this authority to movement of animals in Wisconsin, allowing the state veterinarian to specify a different expiration date for the CVI if the state veterinarian determines, based on an epidemiological evaluation of current disease risks in a herd or place of origin, that a different expiration date is necessary.

7. Federally approved livestock marketing facility.

Current rules uses the term, "federally approved livestock import market." The proposed rule updates the term to "federally approved livestock marketing facility" throughout chs. ATCP 10 and 12.

The proposed rule also allows a federally approved livestock marketing facility to be a federally approved tagging site if that facility meets certain requirements and has an agreement with the USDA federal bureau.

8. Application information.

The current rule requires applicants, for a permit to have an approved import feed lot, intermediate livestock handling facility, or foreign equine import quarantine station and to provide the location of the facility by county, town, section and sometimes fire number. The proposed rule requires applicants to provide the facility's location by address and county, or if the address is not available, the county, town, and section.

9. Slaughter swine identification.

The current rule requires swine going to slaughter to be identified with an official swine backtag or other approved slaughter identification, unless the swine already bears an official individual identification or slaughter identification. The proposed rule allows the use of a premises identification number (PIN) eartag as an approved form of slaughter identification for swine.

10. Equine infectious anemia.

The current rule requires any equine animal that is purchased, sold or otherwise changed ownership to test negative for equine infectious anemia within 12 months. The proposed rule clarifies that the equine animal must test negative for equine infectious anemia within 12 months, from the date the blood was drawn for the test to the date of purchase, sale or transfer.

11. Farm-raised deer (FRD).

Commingling with bovine animals. The current rule allows FRD to commingle with bovine animals on the same premises or in the same building, enclosure or vehicle so long as neither is moved off the premises, except to slaughter. The proposed rule clarifies this provision so that FRD may be kept on the same premises as bovine animals, without having to go to slaughter, if the two species are medically separated. The Division of Animal Health (Division) must inspect the location to determine whether the herds are medically separated, before the FRD herd is registered and, per current rule, the FRD keeper (FRDK) must pay an inspection fee of \$200 for each day needed to complete the inspection. No inspection is required for the renewal of an existing herd registration once the Division has previously inspected the herd premises.

Single registered herd kept at two or more locations. The current rule allows a single registered herd to be kept at two or more locations so long as the entire herd, and all herd locations, are actively enrolled in the chronic wasting disease herd status program. The provision allows a FRDK to move FRD between locations, without a CVI, as long as each of the deer have two individual identifications, one official and the other either official or unique to the herd, and the registrant keeps a record of the movement. The proposed rule provides for additional flexibility by allowing the single registered herd, kept at two or more locations, to be either actively enrolled in the Chronic Wasting Disease (CWD) Herd Status Program (HSP) or not enrolled in the program at all. Regardless of the herd's enrollment, the deer must still have two

individual identifications as described above and the registrant must keep a record of deer movement. The proposed rule adds that the name and address of the person who move any of the deer, if other than the owner, be included in the record of movement, consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Separately registered herds kept at the same location and not medically separated. The current rule allows FRD from two or more herds, covered by separate registration certificates, to be kept at the same location. If the FRD are not in medically separated herds, the deer are collectively treated as a single herd for purposes of disease control and movement. The deer may be moved between any of the herd locations identified in any of the herd registration certificates as long as all of the herds, and all herd locations, are actively enrolled in the CWD HSP program and each of the deer are identified with two individual identifications, one official and the other either official or unique to the herd. The proposed rule provides for additional flexibility by allowing that all of the herds, and all herd locations, be either actively enrolled in the CWD HSP program or not enrolled in the program at all. Regardless of the herd's enrollment, each of the deer must still have two individual identifications as described above. The proposed rule also makes clear that deer movement may occur without a CVI if the registrant keeps a record of deer movement that includes the two individual identifications of each deer plus the species, age, and sex of the deer; the date of movement; the name and address of the person who had custody of the deer during movement, if other than the owner; and the registration numbers of the herd from which, and to which, the deer was moved. The proposed rule specifies this record of movement information be consistent with all other FRD movement requirements in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Record keeping requirements. Current rules specify record keeping requirements regarding deer movement, including escapes and slaughter, under various sections of ch. ATCP 10. Some of the information varies slightly depending on where it is referenced in the chapter. The proposed rule makes all record keeping requirements regarding FRD movement consistent throughout the chapter. The proposed rule also requires that a record be kept regarding each known natural addition to the herd, including the month and year of birth, and sex of the deer, if determined.

Escaped FRD. Current rules specify record keeping requirements for escaped FRD throughout ch. ATCP 10. The proposed rule makes all record keeping requirements for escaped deer consistent throughout the chapter. The proposed rule also makes clear that it is the FRDK's responsibility to test any deer that escapes from the FRDK's herd for chronic wasting disease. The proposed rule expands the number of hours that may elapse from the time a deer escapes from a herd to the time it is returned, from 72 to 120, before the herd loses any tuberculosis or brucellosis certification or CWD herd status. In a wild deer disease control area escaped deer continue to be required to be returned to the herd within 24 hours after the escape.

FRD hunting preserves. The current rule uses the term “hunting preserve.” The proposed rule changes that term to “hunting ranch” to more accurately describe the facility.

The proposed rule also eliminates the requirement that an applicant for a hunting ranch certificate provide a list showing, for each FRD on the hunting premises that bears any attached or implanted identification, each type of identification and each associated identification number that the FRD bears.

The current rule requires all non-natural additions to a hunting ranch have one visible official identification (eartag) and one microchip implanted at the base of the ear or tail of the deer. The proposed rule makes FRD identification consistent with requirements throughout by requiring these deer to have two individual identifications, one official and the other either official or unique to the herd. One of the identifications must be visible. A microchip is no longer required to be used, but may be used as an official individual identification if it is federal bureau and Department approved, or is as an identification that is unique to the herd.

The current rule requires any person that holds a hunting preserve certificate to keep records, including the name and address of the person who collected the test sample for chronic wasting disease. The proposed rule eliminates the requirement that the name and address of the person who collected the test sample for chronic wasting disease be recorded.

CWD testing. Current rules specify CWD testing requirements for FRD herds enrolled in the CWD herd status program and for herds that are not enrolled in the program.

Current rules require a FRDK, whose herd is enrolled in the CWD HSP, to have a CWD test performed on each (100%) of the following deer that are at least 12 months of age:

- A FRD that dies or is killed while kept by that person.
- A FRD that the person ships directly to a slaughtering establishment.

The proposed rule makes clear that escaped deer that die or are killed must be tested for CWD, as is required for escaped deer.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is enrolled in the CWD herd status program for at least 5 years, by requiring 25%, rather than 100%, of deer sent to slaughter be tested for CWD. A FRDK whose herd has less than 5 years of status in the CWD herd status program must continue to CWD test 100% of any FRD sent to slaughter.

Current rules require a FRDK whose herd is not enrolled in the CWD HSP to have a CWD test performed on all of the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.

- All (100%) FRD that are killed intentionally.
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is not enrolled in the CWD herd status program by requiring CWD testing for the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- Fifty percent of FRD that are killed intentionally
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes, and whose remains are testable, on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule does not set any specific standard as to whether a FRD's remains are testable. After an animal dies, the body begins to decompose at a rate that corresponds to the weather, ambient temperature, and other elements. Decomposition will affect the ability of the lab to detect disease. Testability will have to be determined on a case-by-case basis by the FRDK.

Test samples collected for CWD. Current rules require a person who collects a CWD test sample from a FRD to meet certain requirements. The proposed rule adds the requirement that the collector label the test sample with the official individual identification or backtag number of the animal being tested.

Verification of CWD test results. The proposed rule creates a provision allowing a FRDK to verify the identity of a FRD that was reported as being positive for CWD, through genetic testing in a procedure approved by the Department. Genetic testing is currently allowed, but not in rule.

CWD herd quarantine. The current rule requires a FRD herd to be quarantined if one of the deer in the herd tests positive for CWD. The proposed rule specifies a herd may be quarantined for up to five years from the date the last FRD in the herd tested positive for CWD. The proposed rule also makes clear that, based on the epidemiological evaluation, the Department may quarantine a herd or individual FRD traced back or forward from the herd in which a FRD tested positive for CWD.

CWD HSP. The current rule specifies requirements for enrollment in the CWD HSP. Enrollment requires the applicant to provide certain information including the number of FRD at least one year old and the number less than one year old. The proposed rule repeals this requirement, as current rule requires the applicant to provide the month and year of birth for each FRD.

The current rule requires a FRDK whose herd is enrolled in the CWD HSP to provide a list of each known natural addition to the herd, including the month and year of birth, and sex, if determined, on the annual census. For consistency, the proposed rule adds this requirement to the general record keeping requirements of a FRDK with a herd enrolled in the CWD HSP.

FRD identification. The current rule requires a veterinarian to identify any FRD with an official individual identification unless the FRD already bears all required individual identification whenever he or she vaccinates, tests, or collects samples from a FRD. The proposed rule requires the veterinarian to record the official individual identification of the FRD on the vaccination, test or sample.

FRD imports. With some exceptions, the current rule requires that FRD imported into Wisconsin have a CVI. To be consistent with requirements for intrastate movement of deer, the proposed rule requires that the following statements be included on the CVI for deer imported into this state:

- All cervids identified on this certificate originate from a herd that has shown no clinical signs of CWD in the past 12 months.
- All cervids identified on this certificate originate from a herd that is adequately separate from any wild deer herd known to be infected with CWD.

Double protective barriers. In some cases, FRD herds must be enclosed by a double protective barrier. The barrier may be either a double fence that meets certain criteria or a solid barrier that is at least 8 feet high. The current rule requires the double fence to be 8 feet high and the two fences to be at least 10 feet but not more than 16 feet apart. The proposed rule modifies the minimum distance allowed between the two fences to be 8 feet, rather than 10 feet, to align with the Department of Natural Resources (DNR) rule, s. NR. 16.45, Wis. Admin. Code.

12. Fish farms.

Current rules specify fees charged to applicants who apply for a license or registration after the license or registration has expired or after it has been determined that the operator of a facility operated without a license or registration. The proposed rule adds these specified fees to fish farm registrations to be consistent with requirements for other registrations and licenses.

The current rule allows some fish or fish eggs to be imported into Wisconsin without having an import permit. The current rule could be interpreted to require that import records be kept only if the person importing fish has an import permit. The proposed rule makes clear that import records must be kept regardless of whether the person was required to have an import permit.

The current rule allows fish to be reintroduced into their original wild source without a health certificate if certain criteria are met, including issuance of a permit by the

state veterinarian or designee and written approval from the DNR. The proposed rule eliminates the requirement that a permit be issued by the state veterinarian or designee and requires specific records of any movement be kept by the DNR for at least five years.

13. CVI not required.

Current rules allow certain animals, including goat, sheep, swine, equine, and bovine to cross the Wisconsin state border without a CVI if the animal is:

- Imported directly to a veterinary facility for treatment provided that the animal is returned to its place of origin immediately following treatment and there is no change in ownership of the animal.
- Returned directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the animal was taken directly to the veterinary facility and there was no change of ownership.

The proposed rule applies these provisions to dogs and cats.

14. Elephant imports.

Current rules specify requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants and requires an imported elephant to have:

- An import permit.
- A valid CVI that includes the import permit number and a report of a negative tuberculosis test.
- At least one negative tuberculosis test, approved by the Department, conducted not more than 365 days prior to the import date (except for an elephant imported directly to an institution accredited by the association of zoos and aquariums).
- An owner statement that the elephant imported into this state has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import. If the elephant has been exposed to this disease within 5 years, the person may not import the elephant unless the elephant has met additional tuberculosis testing requirements specified by the state veterinarian.

15. Appendix B.

Appendix B to ch. ATCP 10 specifies diseases that must be reported within 10 days. The proposed rule amends the Appendix to match federal requirements.

16. Animal markets, dealers and truckers

Current rules establish licensing requirements and responsibilities of animal markets, animal dealers and animal truckers.

The proposed rule makes clear when a license is not required, such as the following:

- A farm operator does not need an animal market license to have an occasional sale buying or exchanging livestock solely for dairy, breeding, or feeding operations on that farm or who sells only livestock produced or raised on that farm.
- A person does not need an animal trucker license to transport livestock or wild animals solely as an employee of a person who owns those animals.

The proposed rule eliminates the requirement that a Class B animal market, when applying for an animal market license, identify the dates during the previous license year, if any, on which the person conducted livestock sales at the animal market.

The proposed rule provides cross-references to additional fees that may apply to a person applying for an animal market and dealer trucker license.

The proposed rule makes clear that the Department may deny, suspend, or revoke an animal market or animal dealer license if the applicant is in violation of 9 CFR Part 201, relating to registration or bonding requirements of the Federal Packers and Stockyards Act.

The proposed rule makes clear that an animal dealer or animal market operator must immediately apply and record an animal's official individual identification, if the animal does not already have it, when that animal was backtagged to go to slaughter but did not go to slaughter.

The proposed rule repeals the requirement that an animal market operator, animal dealer and animal trucker record the livestock premises code of the premises from which an animal was received and the livestock premises code of the premises to which the animal is shipped or delivered.

The proposed rule prohibits the use of electric prods on neonatal or other baby animals. The proposed rule also prohibits hitting these animals with any type of solid object that may cause injury, pain, or stress to the animal.

17. Waiver.

The proposed rule allows the Department to grant a waiver from the requirements under ch. ATCP 12, if it receives a written request for the waiver and the Department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12, and will not conflict with state law.

Small Businesses Affected

The majority of these rule modifications are technical and have no or minimal fiscal effect. Many of the rule modifications will ease program requirements and may reduce costs to small business.

The entities that may be affected by this rule modification include the following:

1. Veterinarians.

Upon the effective date of the rule, veterinarians and authorized employees or agents of the Department or the federal bureau will be required to take Department-approved training on tuberculosis testing and sample collection within 5 years prior to testing an animal for tuberculosis. Such training is already required of veterinarians testing FRD for tuberculosis. This will be a new requirement for veterinarians who choose to test animals for this disease. Because this training is provided free of charge, there will be no cost to these veterinarians.

2. Farm-raised deer keepers (FRDKs).

CWD testing. FRDKs who have herds enrolled in the CWD herd status program with at least 5 years of status may realize a significant cost savings, as only 25% of their FRD aged 12 months or older shipped directly to slaughter must be tested for CWD. This change is significant as the current rule requires 100% of these FRD to be tested for CWD when sent to slaughter.

FRDKs whose herds are not enrolled in the CWD herd status program may realize a significant cost savings as only 50% of their FRD aged 16 months or older that are killed intentionally, except after escape, must be tested for CWD. This change is significant as the current rule requires 100% of these FRD to be tested for CWD.

It is estimated that hiring a veterinarian to collect CWD test samples costs approximately \$75 per deer. Depending on the number of deer tested at one time, this cost may be lower. This cost will also be lower if the FRDK has a qualified employee or immediate family member that can collect the CWD test samples. Because the actual cost to test a deer for CWD is unknown, total cost savings are indeterminate.

Hunting preserves. Changing the term hunting “preserves” to hunting “ranches” was requested by the farm-raised deer industry. The fiscal effect of this terminology change is unknown but is presumably low, as it is sought by the FRD industry.

Commingling FRD with bovine animals. Current rules allow FRD and bovine animals to be commingled only if those animals move to slaughter.

The proposed rule makes clear that FRDKs who wish to keep deer and bovine animals at the same location without having to move them to slaughter must have fencing and facilities adequate to maintain medical separation at all times. Medical separation includes double fencing and bio-security procedures, including procedures to prevent the commingling of farm-raised deer with bovine animals.

A FRDK who chooses to keep FRD and bovine animals at the same location will incur costs to purchase additional fencing and separate equipment for the FRD and

bovine animals. There is also a one-time cost of \$200 for each day needed for Department staff to complete the medical separation inspection of the location.

It is unknown how many FRDKs wish to keep FRD and bovine animals at the same location. Therefore, these costs are indeterminate.

3. Wisconsin importers of elephants.

The current rule specifies requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants. The current import requirements for elephants are listed under wild animal and circus, rodeo, and menagerie animal imports. The proposed elephant import requirements incorporate several of those provisions into the rule. The new requirement that the owner of an elephant provide a statement that the elephant has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import should not result in a significant cost to the importer.

Reporting, Bookkeeping and other Procedures

This rule modifies record keeping requirements of a) FRDKs and b) the Wisconsin Department of Natural Resources (DNR) reintroducing fish to the same lake or river from which they were collected, as follows:

1. Farm-raised deer keepers (FRDKs).

Currently, FRDKs must maintain records relating to any farm-raised deer that enters, leaves, or escapes the herd or dies on the premises. These record keeping requirements are specified in different places in the rule and are not always consistent. The proposed rule clearly specifies the requirements for deer entering the herd, leaving the herd by authorized movement, leaving the herd by escape, leaving the herd for slaughter or dying on the premises under the general record keeping section. For consistency, the proposed rule also cross-references this section when record keeping requirements are specified elsewhere in the rule. There are no additional record keeping requirements, therefore, there should be no additional costs related to this rule modification.

The proposed rule clarifies that records must include any known natural additions to the herd, including the month and year of birth, and sex of the farm-raised deer, if determined. Certain information, including the age of a deer must be recorded by the FRDK before any deer may leave the premises. To know the age of any natural additions that may at some time leave the herd, a birth month (and sex of deer, if known) of these deer should be recorded.

The proposed rule eliminates the requirement that for each deer killed on a hunting preserve, the owner keep a record of:

- The location of the premises where a deer was killed.

- The name and address of the person who collected the test sample for the CWD test.

The proposed rule eliminates the requirement that a FRDK whose herd is enrolled in the CWD HS program include the number of deer at least one year old and the number of deer less than one year old on the herd census.

Any additional costs or cost savings related to these record keeping changes should be minimal.

2. Fish

The proposed rule requires the DNR to keep a record of movement, for five years, of any fish or fish eggs they reintroduce to the same lake from which the fish, or the eggs from which they were hatched, were collected, or to the same point or a downstream point in the same river system from which the fish, or the eggs from which they were hatched, were collected.

If these records are maintained by DNR, they no longer have to request a permit from the state veterinarian authorizing the reintroduction.

Professional Skills Required

To the extent that this rule requires changes in professional skills, the Department's analysis is included in the prior sections covering impacts on owners or keepers of farm-raised deer.

Accommodation for Small Business

Many of the businesses affected by this rule are "small businesses." For the most part, this rule does not make special exceptions for small business, because disease does not differentiate or respect business size.

The rule provisions that may have a more significant fiscal effect are those required by USDA regulations that, again, do not differentiate by business size.

Finally as the "business impact" section describes above, there are several provisions that will benefit small businesses.

Conclusion

This rule will generally benefit affected businesses, including “small businesses.” Negative effects, if any, will be few and limited. This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22(2) (e), Stats.

Dated this 8th day of January, 2016.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Paul J. McGraw, DVM, Administrator
Division of Animal Health

**ADMINISTRATIVE RULES
FISCAL ESTIMATE AND
ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. ATCP 10, animal diseases and movement and ch. ATCP 12, animal markets, dealers and truckers

Subject

Animal Disease and Movement and Animal Markets, Truckers and Dealers

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

s. 20.115 (2) (ha), Stats.

Fiscal Effect of Implementing the Rule

No Fiscal Effect

Indeterminate

Increase Existing Revenues

Decrease Existing Revenues

Increase Costs

Could Absorb Within Agency's Budget

Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

The majority of the proposed rule changes are technical or provide for flexibility, clarity and consistency. The proposed rule will also incorporate several changes based on discussions with the farm-raised deer industry and other interested parties.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The majority of these rule modifications are minor, made to clarify current requirements or make them consistent, and have no fiscal effect.

Many of the rule modifications will ease program requirements and may reduce costs to small business. The entities that will be affected by these changes include:

1. Farm-raised deer keepers.
2. Persons importing elephants into Wisconsin.
3. Fish farmers.
4. Animal markets, dealers and truckers.

This rule will not have any significant negative economic or fiscal impact on business sectors, public utility rate payers, local governmental units, or the state's economy as a whole and does not create additional requirements that local governments must follow.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The majority of these rule modifications are minor, made to clarify current requirements or make them

consistent. There are no alternatives suggested for these changes. If the rule is not modified to make these clarifications, it will remain unclear and confusing in certain sections.

Many of the rule modifications relating to farm-raised deer will ease program requirements. There are no alternatives suggested for these changes.

Long Range Implications of Implementing the Rule

Overall, this rule continues to provide for disease control and prevention for the benefit of the entire livestock and aquaculture industry. In many cases, this rule will improve flexibility and reduce costs for individual businesses, including small businesses.

Compare With Approaches Being Used by Federal Government

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 chronic wasting disease (CWD) herd certification program (HCP) requirements include individual animal IDs, regular inventories, and testing of cervids over 12 months of age that die. Interstate movement of cervids will be dependent on the home state's participation in the program, maintaining compliance with program requirements, and achieving herd certification status.

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

The proposed rule modifications will ease program requirements relating to CWD while still complying with federal regulations and will allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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

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

In addition to meeting federal CWD HCP requirements for farm-raised deer to move interstate, livestock, including farm-raised deer, are also required to have federally approved forms of official identification to move interstate. Wisconsin, Illinois, Iowa, Michigan, and Minnesota programs are approved as meeting the federal traceability identification requirements in order to move livestock interstate. Therefore, all are implementing the federal requirements and all should have similar state rules.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the Department external website or the statewide administrative rules website.

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

1 The Wisconsin department of agriculture, trade and consumer protection proposes the following
2 permanent rule *to repeal* ATCP 10.01 (103), 10.13 (6) (a) 2., 10.22 (5) (b) 4. b., 10.31 (2) (Note),
3 10.46 (10) (a) 7., 10.47 (3) (b) 6., (7) (b) 3., 10.48 (6) (b) 2., 10.53 (2) (d) 2. and 3., (5) (a) 1. and
4 2. and (b) 1., (6) (a) 1. to 4., 10.655 (1) (a), (3) and (4), 10.82 (3) (c), 12.06 (1m) (bc) and (1s)
5 (c); *to renumber* ATCP 10.01 (71) (c) 1. to 7., 12.01 (20) (c) 1. to 7., 12.04 (2) (b), 12.05 (1)
6 (b); *to renumber and amend* ATCP 10.01 (71) (b), 10.46 (5) (b) 2., (12) (a), 10.52 (1m) (a) 2.,
7 10.55 (3) (e), 10.56 (1) (a) 2., 10.82 (4) (b), 12.01 (11m), (20) (b), 12.05 (2) (b); *to consolidate,*
8 *renumber and amend* ATCP 10.13 (6) (a) (intro.) and 1., 10.22 (5) (b) 4. (intro.) and (a), 10.48
9 (1) (c), (d), (6) (b) (intro.) and 1., *to amend* ATCP 10.01 (5), (8), (17) (a), (42), (45), and (59),
10 (71) (c), (f), (g) 3., (h) 2., (90), (101), (105) and (106) (a), 10.03 (3), 10.06 (3) (a), (4) (intro.) and
11 (j) and (5), 10.07 (4) (title), (a) (intro.) and 3., (b), (c) (intro.) and (d), 10.13 (1) (a) (intro.) and
12 2., 10.13 (3) and (Note), (5), (6) (c), 10.21 (1) (a) (intro.), (2) (a) (intro.) and 1., and (b) 1., 10.22
13 (1) (b) 2. and (Note), (2) (b) 4., (7m), (9) (title) and (a) and (Note), (b) and (Note), (c) (intro.) and
14 3., (d), (e) (intro.) 2. and 3., and (10) (c), 10.30 (1) (b) 2. and (Note), (2) (b) 2., (3) (b) 2., (4) (b)
15 2., and (6) (b) 2., 10.31 (1) (intro.) and (a), (2) (a) 1. and 3. and (b), 10.35, (1) (a), 10.36 (3),
16 10.37 (3) (c), 10.40 (1) (intro.), 10.46 (1m) (b), (4) (a), (b) 2., (5) (a) and (b) 3., (6) (c) 4., (f)
17 (Note), (7) (b), (10) (a) (intro.) and 1., 3., 4. and 5., (b) (intro.) and 1., (c) 3., (11) (c), and (d),
18 (12) (b) and (c) and (13) (Note), 10.47 (title), (2) (b), (3) (title), (a) and (Note) and (b) (intro.)
19 and 2., 5. and 6. (Note), (c), (3m) (intro.) and (c), (4) (intro.) and (4m), (6), (7) (intro.) and (b)
20 (intro.) and 2., and (8) (intro.), 10.48 (1) (title), (a) (intro.) and 2., (4) and (Note), and (5), (6) (c)
21 and (d), 10.52 (1m) (a) 1. and 2. (Note) and (b) 1. to 3., (7), (8) (c) (Note), 10.53 (2) (c) and (e)
22 (Note), (4) (b) 2., (6) (a) (intro.) and (b) 2. to 4., (7) (a) 5., (10) (a) 2. b., 10.54 (1) (a) (intro.) and
23 (am), (2) (a) and (b) 1., 10.55 (3) (d) (Note), 10.56 (3) (f) 1. and 4., 10.58 (1) (b), 10.61 (2) (i) 3.
24 (Note), and (7) (e), 10.62 (7) (intro.) and (a), 10.655 (1) (b), 10.69 (2) (d), 10.74 (1) and (Note)
25 and (2), 10.76 (1) (b) 4., 10.80 (1) (intro.), 10.87 (1) (b), (3) (b) 1., and (6) (a), 10.91 (1) (intro.),
26 ch. ATCP 10, Appendix B, 12.01 (1g), (8y), (20) (c) (intro.) and (f), (g) 3., (h) 2. and (25), 12.02
27 (1m) (intro.), (3) (c), (d), and (f), 12.03 (2) (b) and (4) (d), 12.04 (9) (a) and (b), 12.05 (1) (a), (2)
28 (a), (2) (b) second (Note), 12.08 (10); *to repeal and recreate* ATCP 10.13 (1) (b), 10.52 (1m)
29 (b) 4., 10.655 (2); and *to create* ATCP 10.01 (71) (b) 2., (c) 2. and 3., and (g) 4., (2m) and
30 (99m), 10.045, 10.055, 10.07 (4m) (am), 10.13 (1m), 10.46 (1) (f), 10.46 (5) (b) 2. b., (10) (ae)
31 (am) and (as), (11) (d) 2., (12) (a) 2. and (am), 10.52 (1m) (a) 2. a. and b., (3) (c) 1m., (6m),
32 (7m), 10.53 (6) (am), 10.55 (3) (e) 2. and 3., 10.56 (1) (a) 2. a. and b. and 3., 10.61 (7) (f), 10.80
33 (3), 10.82 (4) (b) 2., 10.86, Chapter ATCP 12 (Note) (2), 12.01 (11m) (a), (20) (b) 2., (c) 2. and
34 3., (g) 4., and (26m), 12.02 (7) (i), 12.03 (8) (i), 12.04 (2) (b) 2., 12.05 (1) (b) 2., and (2) (b) 2.,
35 12.08 (27), and 12.09, relating to animal disease control and animal movement, and animal
36 markets, dealers and truckers, and affecting small business.

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

This proposed rule will modify current animal health rules to provide for flexibility, clarity and consistency.

Statutes Interpreted

Statutes interpreted: ss. 93.07, 95.20, 95.22, 95.31, 95.45, 95.55, 95.60 95.65, 95.68, 95.69, 95.71, and 95.715 Stats.

Statutory Authority

Statutory authority: ss. 93.07 (1), (2) and (10), 93.15 (1), (2) and (3), 95.20, 95.22, 95.38 (3), 95.42, 95.43 (1) and (2), 95.45 (4) (c), 95.55 (6), and 95.60 (3) and (4s), 95.68 (8), 95.69 (8) and 95.71 (8), and 95.715 (2) (d), Stats.

Explanation of Statutory Authority

The Department of Agriculture, Trade and Consumer Protection (Department) has broad authority to promulgate rules for the proper enforcement of its programs under s. 93.07 (1) and (10), Stats.

The Department has broad authority under s. 95.20, Stats., to prohibit or regulate the importing of animals into this state or the movement of animals if there are reasonable grounds to believe it is necessary to prevent the introduction or spread of disease in this state.

The Department has specific rulemaking authority on reporting animal diseases under s. 95.22 (2), Stats., certificates of veterinary inspection under s. 95.45 (4) (c), Stats., regulation of the farm-raised deer industry under s. 95.55 (6), Stats., regulation of fish farms under s. 95.60 (3) and (4s), Stats., regulation of animal markets under s. 95.68 (8), Stats., regulation of animal dealers under s. 95.69 (8), Stats., regulation of animal truckers under s. 95.71 (8), Stats., and regulation of feed lots under s. 95.715 (2) (d), Stats.

Related Statutes and Rules

The Department of Natural Resources (DNR) has statutes and rules that are closely related to some of the program areas in the Department. Section NR 16.45, Wisconsin Administrative Code, establishes fencing requirements and harvest plan requirements for keepers of farm-raised deer that are white-tailed deer. Section 29.87, Stats., establishes guidelines by which the DNR may dispose of escaped farm-raised deer. Section 29.735, Stats., establishes requirements for importation of fish other than health requirements and section 29.736, Stats., establishes requirements for the stocking of fish into waters of the state, other than health requirements.

Plain Language Analysis

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

1. Definitions and terms.

The proposed rule makes the following changes to definitions and terms:

Replaces the phrase, “buying or selling” with “trading in” under the definition of animal market to match the statutory definition under s. 95.68 (1) (ag), Stats.

Adds a definition of “trading in livestock or wild animals” to clarify that animal markets trade, buy, sell or swap livestock or wild animals.

Changes the spelling of “feedlot” to “feed lot” to match statutory language.

Modifies the definition of “Brucellosis and Tuberculosis uniform methods and rules” and “Johne’s disease national program standards” to clarify that official individual identification requirements of any animal tested for these diseases must meet the requirements specified under ch. ATCP 10 and not the identification requirements specified under the uniform methods and rules or national program standards.

Changes the definition of “farm-raised deer” under ch. ATCP 10 to match the definition of “farm-raised deer” under ch. ATCP 12.

Changes the term, “federally approved livestock import market,” to “federally approved livestock marketing facility.”

Changes the definition of “individual” under ch. ATCP 12 to match the definition of “individual” under ch. ATCP 10.

Modifies the definition of “official individual identification” to allow additional forms of official individual identification to be used for farm-raised deer, equine, swine, and goats and sheep to align with federal rule definitions.

Modifies the definition of “slaughtering establishment” under ch. ATCP 10 to match the definition of “slaughtering establishment” under ch. ATCP 12.

Repeals the definition of “tuberculosis non-modified accredited state” as the term is not used throughout ch. ATCP 10 and is incorrectly defined. The definition for “tuberculosis non-modified accredited state” is the correct definition for “tuberculosis modified accredited state.”

2. Disease testing/reporting.

The current rule requires the reporting of certain diseases to the Department within specified timelines. The proposed rule requires the reported information include the species, age, sex

and breed of the animal afflicted with the disease, the address of the farm where the afflicted animal is located, and the premises code, if any.

3. Official individual identification.

Current rules specify approved individuals who may apply official individual identification to animals for different purposes and requires these individuals to keep a record of any identification that has been applied. These requirements are interspersed throughout the rules under specific subsections.

The proposed rule makes these identification requirements more transparent by creating a general section relating to the application and record keeping requirements for those authorized to obtain and apply official individual identification. The proposed rule makes the identification requirements and record keeping requirements consistent. The proposed rule also makes clear that official individual identification does not need to be applied if all required individual identification is already applied to the animal.

4. Tuberculosis testing and control.

Current rules specifies tuberculosis testing requirements, including who may perform tests, test result reporting and movement restrictions, under sections relating to bovine animals and farm-raised deer. The proposed rule creates a general tuberculosis testing and control section that pertains to any animal being tested for the disease and updates the tuberculosis provisions of bovine animals and farm-raised deer, for consistency of all required tuberculosis information.

The proposed rule requires a person who performs a tuberculosis test on an animal, or collects a sample for any other tuberculosis test on an animal, to complete Department-approved training on tuberculosis testing or sample collection within 5 years prior to the test date.

The proposed rule deletes the requirement that a premises be cleaned and disinfected after an animal has been identified as a tuberculosis reactor. The proposed rule provides that cleaning and disinfecting should be done after tuberculosis has been confirmed in an animal identified as a reactor in accordance with the federal Tuberculosis Uniform Methods and Rules.

The proposed rule makes consistent (according to the Federal Tuberculosis Uniform Methods and Rules) the number of days the Department may for good cause extend a deadline (15 days) for sending an animal that is a tuberculosis reactor to slaughter.

5. Bovine import tuberculosis requirements.

The current rule requires any bovine animal imported into Wisconsin to test negative on a pre-import tuberculosis test, with some exceptions, including that the bovine originates from an accredited tuberculosis-free state or nation that accepts bovine animals from Wisconsin without a prior tuberculosis test. The proposed rule allows bovine animals from an accredited tuberculosis-free state or nation to be imported without a prior tuberculosis test, regardless of

whether that state or nation requires a tuberculosis test from Wisconsin animals being imported to that state or nation.

6. Certificates of veterinary inspection (CVI).

The current rule allows a CVI to be issued on a form provided or approved by the Department, the United States Department of Agriculture (USDA) federal bureau, or the state in which the certificate is issued. The proposed rule only allows the CVI to be on a form provided or approved by the Department. The Department will provide, on its web site, a list of CVI forms it has not approved.

The current rule requires certain information to be provided on a CVI. The proposed rule makes clear that this information needs to be verified as accurate by the veterinarian issuing the CVI.

The current rule states that a CVI is valid for 30 days from the date of inspection, unless additional import requirements must be met and the state veterinarian establishes a different expiration date. No person, receiving a notice of additional import requirements, may import an animal into Wisconsin without meeting those requirements. The proposed rule extends this authority to movement of animals in Wisconsin, allowing the state veterinarian to specify a different expiration date for the CVI if the state veterinarian determines, based on an epidemiological evaluation of current disease risks in a herd or place of origin, that a different expiration date is necessary.

7. Federally approved livestock marketing facility.

Current rules uses the term, "federally approved livestock import market." The proposed rule updates the term to "federally approved livestock marketing facility" throughout chs. ATCP 10 and 12.

The proposed rule also allows a federally approved livestock marketing facility to be a federally approved tagging site if that facility meets certain requirements and has an agreement with the USDA federal bureau.

8. Application information.

The current rule requires applicants, for a permit to have an approved import feed lot, intermediate livestock handling facility, or foreign equine import quarantine station and to provide the location of the facility by county, town, section and sometimes fire number. The proposed rule requires applicants to provide the facility's location by address and county, or if the address is not available, the county, town, and section.

9. Slaughter swine identification.

The current rule requires swine going to slaughter to be identified with an official swine backtag or other approved slaughter identification, unless the swine already bears an official individual identification or slaughter identification. The proposed rule allows the use of a

premises identification number (PIN) eartag as an approved form of slaughter identification for swine.

10. Equine infectious anemia.

The current rule requires any equine animal that is purchased, sold or otherwise changed ownership to test negative for equine infectious anemia within 12 months. The proposed rule clarifies that the equine animal must test negative for equine infectious anemia within 12 months, from the date the blood was drawn for the test to the date of purchase, sale or transfer.

11. Farm-raised deer (FRD).

Commingling with bovine animals. The current rule allows FRD to commingle with bovine animals on the same premises or in the same building, enclosure or vehicle so long as neither is moved off the premises, except to slaughter. The proposed rule clarifies this provision so that FRD may be kept on the same premises as bovine animals; without having to go to slaughter, if the two species are medically separated. The Division of Animal Health (Division) must inspect the location to determine whether the herds are medically separated, before the FRD herd is registered and, per current rule, the FRD keeper (FRDK) must pay an inspection fee of \$200 for each day needed to complete the inspection. No inspection is required for the renewal of an existing herd registration once the Division has previously inspected the herd premises.

Single registered herd kept at two or more locations. The current rule allows a single registered herd to be kept at two or more locations so long as the entire herd, and all herd locations, are actively enrolled in the chronic wasting disease herd status program. The provision allows a FRDK to move FRD between locations, without a CVI, as long as each of the deer have two individual identifications, one official and the other either official or unique to the herd, and the registrant keeps a record of the movement. The proposed rule provides for additional flexibility by allowing the single registered herd, kept at two or more locations, to be either actively enrolled in the Chronic Wasting Disease (CWD) Herd Status Program (HSP) or not enrolled in the program at all. Regardless of the herd's enrollment, the deer must still have two individual identifications as described above and the registrant must keep a record of deer movement. The proposed rule adds that the name and address of the person who move any of the deer, if other than the owner, be included in the record of movement, consistent with other FRD movement requirements listed elsewhere in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Separately registered herds kept at the same location and not medically separated. The current rule allows FRD from two or more herds, covered by separate registration certificates, to be kept at the same location. If the FRD are not in medically separated herds, the deer are collectively treated as a single herd for purposes of disease control and movement. The deer may be moved between any of the herd locations identified in any of the herd registration certificates as long as all of the herds, and all herd locations, are actively enrolled in the CWD HSP program and each of the deer are identified with two individual identifications, one official and the other either official or unique to the herd. The proposed

rule provides for additional flexibility by allowing that all of the herds, and all herd locations, be either actively enrolled in the CWD HSP program or not enrolled in the program at all. Regardless of the herd's enrollment, each of the deer must still have two individual identifications as described above. The proposed rule also makes clear that deer movement may occur without a CVI if the registrant keeps a record of deer movement that includes the two individual identifications of each deer plus the species, age, and sex of the deer; the date of movement; the name and address of the person who had custody of the deer during movement, if other than the owner; and the registration numbers of the herd from which, and to which, the deer was moved. The proposed rule specifies this record of movement information be consistent with all other FRD movement requirements in ch. ATCP 10. See the related *Record-keeping requirements* summary below.

Record keeping requirements. Current rules specify record keeping requirements regarding deer movement, including escapes and slaughter, under various sections of ch. ATCP 10. Some of the information varies slightly depending on where it is referenced in the chapter. The proposed rule makes all record keeping requirements regarding FRD movement consistent throughout the chapter. The proposed rule also requires that a record be kept regarding each known natural addition to the herd, including the month and year of birth, and sex of the deer, if determined.

Escaped FRD. Current rules specify record keeping requirements for escaped FRD throughout ch. ATCP 10. The proposed rule makes all record keeping requirements for escaped deer consistent throughout the chapter. The proposed rule also makes clear that it is the FRDK's responsibility to test any deer that escapes from the FRDK's herd for chronic wasting disease. The proposed rule expands the number of hours that may elapse from the time a deer escapes from a herd to the time it is returned, from 72 to 120, before the herd loses any tuberculosis or brucellosis certification or CWD herd status. In a wild deer disease control area escaped deer continue to be required to be returned to the herd within 24 hours after the escape.

FRD hunting preserves. The current rule uses the term "hunting preserve." The proposed rule changes that term to "hunting ranch" to more accurately describe the facility.

The proposed rule also eliminates the requirement that an applicant for a hunting ranch certificate provide a list showing, for each FRD on the hunting premises that bears any attached or implanted identification, each type of identification and each associated identification number that the FRD bears.

The current rule requires all non-natural additions to a hunting ranch have one visible official identification (ear tag) and one microchip implanted at the base of the ear or tail of the deer. The proposed rule makes FRD identification consistent with requirements throughout by requiring these deer to have two individual identifications, one official and the other either official or unique to the herd. One of the identifications must be visible. A microchip is no longer required to be used, but may be used as an official individual identification if it is federal bureau and Department approved, or is as an identification that is unique to the herd.

The current rule requires any person that holds a hunting preserve certificate to keep records, including the name and address of the person who collected the test sample for chronic wasting disease. The proposed rule eliminates the requirement that the name and address of the person who collected the test sample for chronic wasting disease be recorded.

CWD testing. Current rules specify CWD testing requirements for FRD herds enrolled in the CWD herd status program and for herds that are not enrolled in the program.

Current rules require a FRDK, whose herd is enrolled in the CWD HSP, to have a CWD test performed on each (100%) of the following deer that are at least 12 months of age:

- A FRD that dies or is killed while kept by that person.
- A FRD that the person ships directly to a slaughtering establishment.

The proposed rule makes clear that escaped deer that die or are killed must be tested for CWD, as is required for escaped deer.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is enrolled in the CWD herd status program for at least 5 years, by requiring 25%, rather than 100%, of deer sent to slaughter be tested for CWD. A FRDK whose herd has less than 5 years of status in the CWD herd status program must continue to CWD test 100% of any FRD sent to slaughter.

Current rules require a FRDK whose herd is not enrolled in the CWD HSP to have a CWD test performed on all of the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- All (100%) FRD that are killed intentionally.
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule eases the CWD testing requirement for a FRDK whose herd is not enrolled in the CWD herd status program by requiring CWD testing for the following deer that are at least 16 months of age:

- All (100%) FRD that are killed after escape.
- Fifty percent of FRD that are killed intentionally
- Fifty percent of FRD that are killed by hunt on a hunting preserve.
- All (100%) FRD that die by accidental death or natural causes, and whose remains are testable, on the premises while kept by that person.
- Twenty-five percent of all FRD that are sent to slaughter.

The proposed rule does not set any specific standard as to whether a FRD's remains are testable. After an animal dies, the body begins to decompose at a rate that corresponds to the weather, ambient temperature, and other elements. Decomposition will affect the ability of

the lab to detect disease. Testability will have to be determined on a case-by-case basis by the FRDK.

Test samples collected for CWD. Current rules require a person who collects a CWD test sample from a FRD to meet certain requirements. The proposed rule adds the requirement that the collector label the test sample with the official individual identification or backtag number of the animal being tested.

Verification of CWD test results. The proposed rule creates a provision allowing a FRDK to verify the identity of a FRD that was reported as being positive for CWD, through genetic testing in a procedure approved by the Department. Genetic testing is currently allowed, but not in rule.

CWD herd quarantine. The current rule requires a FRD herd to be quarantined if one of the deer in the herd tests positive for CWD. The proposed rule specifies a herd may be quarantined for up to five years from the date the last FRD in the herd tested positive for CWD. The proposed rule also makes clear that, based on the epidemiological evaluation, the Department may quarantine a herd or individual FRD traced back or forward from the herd in which a FRD tested positive for CWD.

CWD HSP. The current rule specifies requirements for enrollment in the CWD HSP. Enrollment requires the applicant to provide certain information including the number of FRD at least one year old and the number less than one year old. The proposed rule repeals this requirement, as current rule requires the applicant to provide the month and year of birth for each FRD.

The current rule requires a FRDK whose herd is enrolled in the CWD HSP to provide a list of each known natural addition to the herd, including the month and year of birth, and sex, if determined, on the annual census. For consistency, the proposed rule adds this requirement to the general record keeping requirements of a FRDK with a herd enrolled in the CWD HSP.

FRD identification. The current rule requires a veterinarian to identify any FRD with an official individual identification unless the FRD already bears all required individual identification whenever he or she vaccinates, tests, or collects samples from a FRD. The proposed rule requires the veterinarian to record the official individual identification of the FRD on the vaccination, test or sample.

FRD imports. With some exceptions, the current rule requires that FRD imported into Wisconsin have a CVI. To be consistent with requirements for intrastate movement of deer, the proposed rule requires that the following statements be included on the CVI for deer imported into this state:

- All cervids identified on this certificate originate from a herd that has shown no clinical signs of CWD in the past 12 months.
- All cervids identified on this certificate originate from a herd that is adequately separate from any wild deer herd known to be infected with CWD.

Double protective barriers. In some cases, FRD herds must be enclosed by a double protective barrier. The barrier may be either a double fence that meets certain criteria or a solid barrier that is at least 8 feet high. The current rule requires the double fence to be 8 feet high and the two fences to be at least 10 feet but not more than 16 feet apart. The proposed rule modifies the minimum distance allowed between the two fences to be 8 feet, rather than 10 feet, to align with the Department of Natural Resources (DNR) rule, s. NR. 16.45, Wis. Admin. Code.

12. Fish farms.

Current rules specify fees charged to applicants who apply for a license or registration after the license or registration has expired or after it has been determined that the operator of a facility operated without a license or registration. The proposed rule adds these specified fees to fish farm registrations to be consistent with requirements for other registrations and licenses.

The current rule allows some fish or fish eggs to be imported into Wisconsin without having an import permit. The current rule could be interpreted to require that import records be kept only if the person importing fish has an import permit. The proposed rule makes clear that import records must be kept regardless of whether the person was required to have an import permit.

The current rule allows fish to be reintroduced into their original wild source without a health certificate if certain criteria are met, including issuance of a permit by the state veterinarian or designee and written approval from the DNR. The proposed rule eliminates the requirement that a permit be issued by the state veterinarian or designee and requires specific records of any movement be kept by the DNR for at least five years.

13. CVI not required.

Current rules allow certain animals, including goat, sheep, swine, equine, and bovine to cross the Wisconsin state border without a CVI if the animal is:

- Imported directly to a veterinary facility for treatment provided that the animal is returned to its place of origin immediately following treatment and there is no change in ownership of the animal.
- Returned directly to its place of origin in this state following treatment in a veterinary facility outside this state, provided that the animal was taken directly to the veterinary facility and there was no change of ownership.

The proposed rule applies these provisions to dogs and cats.

14. Elephant imports.

Current rules specify requirements for any person that imports certain animals or imports animals for certain activities. The proposed rule specifies requirements for the import of elephants and requires an imported elephant to have:

- An import permit.
- A valid CVI that includes the import permit number and a report of a negative tuberculosis test.
- At least one negative tuberculosis test, approved by the Department, conducted not more than 365 days prior to the import date (except for an elephant imported directly to an institution accredited by the association of zoos and aquariums).
- An owner statement that the elephant imported into this state has not been exposed to mycobacterium tuberculosis within 5 years prior to the date of import. If the elephant has been exposed to this disease within 5 years, the person may not import the elephant unless the elephant has met additional tuberculosis testing requirements specified by the state veterinarian.

15. Appendix B.

Appendix B to ch. ATCP 10 specifies diseases that must be reported within 10 days. The proposed rule amends the Appendix to match federal requirements.

16. Animal markets, dealers and truckers

Current rules establish licensing requirements and responsibilities of animal markets, animal dealers and animal truckers.

The proposed rule makes clear when a license is not required, such as the following:

- A farm operator does not need an animal market license to have an occasional sale buying or exchanging livestock solely for dairy, breeding, or feeding operations on that farm or who sells only livestock produced or raised on that farm.
- A person does not need an animal trucker license to transport livestock or wild animals solely as an employee of a person who owns those animals.

The proposed rule eliminates the requirement that a Class B animal market, when applying for an animal market license, identify the dates during the previous license year, if any, on which the person conducted livestock sales at the animal market.

The proposed rule provides cross-references to additional fees that may apply to a person applying for an animal market and dealer trucker license.

The proposed rule makes clear that the Department may deny, suspend, or revoke an animal market or animal dealer license if the applicant is in violation of 9 CFR Part 201, relating to registration or bonding requirements of the Federal Packers and Stockyards Act.

The proposed rule makes clear that an animal dealer or animal market operator must immediately apply and record an animal's official individual identification, if the animal does not already have it, when that animal was backtagged to go to slaughter but did not go to slaughter.

The proposed rule repeals the requirement that an animal market operator, animal dealer and animal trucker record the livestock premises code of the premises from which an animal was

received and the livestock premises code of the premises to which the animal is shipped or delivered.

The proposed rule prohibits the use of electric prods on neonatal or other baby animals. The proposed rule also prohibits hitting these animals with any type of solid object that may cause injury, pain or stress to the animal.

17. Waiver.

The proposed rule allows the Department to grant a waiver from the requirements under ch. ATCP 12, if it receives a written request for the waiver and the Department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 12, and will not conflict with state law.

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

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

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

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

The proposed rule eases some requirements for those farm-raised deer keepers that have herds enrolled in the CWD HCP while still meeting federal requirements.

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 other Midwest states are similar to Wisconsin, as all are based on well-established federal standards.

States may apply to become an Approved State 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, Illinois, Iowa, Michigan and Minnesota have approved CWD HCPs by the USDA Animal and Plant Health Inspection Service (APHIS). Therefore, all are implementing the federal requirements and thus are similar to Wisconsin rules.