STATEMENT OF SCOPE

Department of Agriculture, Trade and Consumer Protection (DATCP)

Rule No.: Chs. ATCP 10 and 12, Wis. Adm. Code (existing)

Relating to: Animal Disease and Movement and Animal Markets, Truckers and Dealers.

Rule Type: Permanent

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

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

This proposed rule will modify current animal health rules to align with federal regulations, state statutory requirements, and previous rule modifications. The proposed rule will also make various modifications to provide for flexibility and consistency. These changes may include, but are not limited to, the following:

Federal regulations. Changes made as a result of federal regulations include the following:

- Modifying the definition of "official individual identification" to align with federal traceability rules.
- Establishing chronic wasting disease (CWD) herd status program requirements and deadlines to align rules with United States Department of Agriculture (USDA) rules that establish a Herd Certification Program (HCP) for CWD in farm-raised or captive cervids in the United States.

State statutory requirements. Changes made as a result of state statutory requirements include the following:

- Repealing various rule requirements due to statutory repeals.
- Establishing veteran fee waivers for certain registrations pursuant to 2011 Wisconsin Act 209.
- Eliminating certain record keeping requirements pursuant to 2011 Wisconsin Act 207.
- Modifying various import permit requirements for fish or fish eggs pursuant to 2011 Wisconsin Act 207.

Flexibility and consistency. Changes made to provide for flexibility and consistency include the following:

- Eliminating cross references to requirements that no longer exist in rule.
- Eliminating turkey commingling prohibitions to benefit small poultry farmers.
- Establishing training requirements for individuals approved by the department to collect CWD test samples.
- Clarifying when a valid health certificate must accompany any fish and fish eggs.
- Eliminating certain record keeping requirements.
- Modifying various import requirements.

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

Current policies to accommodate federal CWD regulations.

Under 9 CFR ss. 55.23 (b) (4) and 55.25, in order to have an approved CWD herd certification program, a state program must require all of the following:

- A complete physical herd inventory must be performed for all herds enrolled in the CWD herd status program no more than 3 years after the last complete physical herd inventory for the herd.
- Each deer in an enrolled CWD herd status program must have at least two forms of identification attached to the animal.

The department developed the following policies relating to these federal requirements:

- Physical herd inventory: The first complete physical herd inventory by an APHIS employee, state representative or accredited veterinarian of farm-raised deer currently enrolled in the Wisconsin CWD herd status program must be completed by December 31, 2015, and no later than every third year thereafter.

- Currently enrolled herds: Deer in herds currently enrolled in the Wisconsin CWD herd status program must have two forms of identification applied as follows:

    - By December 31, 2015, to all deer that are 12 months of age or older.
    - Effective December 10, 2012, to any live deer, regardless of age, that is moved from the herd.

- Herds planning to enroll: Effective December 10, 2012, any herds planning to enroll in the Wisconsin CWD herd status program must have two forms of identification attached to each deer prior to enrollment.

- Deer added to an enrolled herd: Effective December 10, 2012, any deer added to a Wisconsin enrolled herd must have two forms of identification:

    - For natural additions, by 12 months of age.
    - For non-natural additions, by the date of entering the herd, regardless of age.

- Reporting deer identification: Effective December 10, 2012, once two forms of identification have been applied to a deer in the Wisconsin CWD herd status program, both forms of identification must be reported on the annual herd census submitted to the department.

Current rule waivers.

The department issued a waiver, effective November 1, 2012, from the prohibition of commingling turkey breeding flocks with other species of fowl or farm-raised game birds, and commingling turkey hatchery eggs with eggs of other species of fowl.

The policies and waiver described above will be reflected in the proposed rules.

Policy alternatives.

- Update rules to accommodate federal CWD regulations. If the department takes no action, current rules will remain in effect. Failure to update the rules may jeopardize Wisconsin's approval from USDA to implement its HCP which allows keepers of farm-raised deer enrolled in the CWD herd status program to move deer interstate.

- Update rules to implement the waiver from the prohibition of commingling turkey breeding flocks/eggs with other species of fowl. If the department takes no action, current rules will remain in effect. The current rule prohibits turkey breeding flocks/eggs from being commingled with other species of fowl. The waiver lifts this prohibition. If the waiver isn't codified in the rule, the rule language prohibiting the commingling of turkey breeding flocks/eggs will remain and conflict with the actual practice allowed under the waiver. The waiver benefits most small poultry farmers who do not have multiple hatchery buildings to meet the requirements of the commingling prohibition under the current rule.

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

- **Section 93.07 Department duties.** It shall be the duty of the department:

  (1) REGULATIONS. To make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department, and to adopt such measures and make such regulations as are necessary and proper for the enforcement by the state of chs. 93 to 100, which regulations shall have the force of law.

  (10) ANIMAL HEALTH; QUARANTINE. To protect the health of animals located in this state and of humans residing in this state and to determine and employ the most efficient and practical means for these purposes, the department may establish, maintain, enforce, and regulate such quarantine and such other measures relating to the importation movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the department determines are necessary. The definition of "communicable disease" in s. 990.01 (5g) does not apply to this subsection.

- **Section 95.20 Import and movement of animals.** The department may prohibit or regulate the importing of animals into this state, or the movement of animals within this state if the department has reasonable grounds to believe that regulation or prohibition is necessary to prevent the introduction or spread of a disease in this state that threatens the health of animals or humans.

- **Section 95.45 Certificates of veterinary inspection; tests for interstate shipment.**

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

  (5) Any certificate of veterinary inspection prepared under this chapter or ch. 169 shall comply with any rules that are promulgated by the department.

- **Section 95.55 Farm-raised deer.**

  (6) RULES. (a) The department shall promulgate rules to regulate persons who keep farm-raised deer. The rules shall establish disease testing requirements for bovine tuberculosis and chronic wasting disease and may establish testing requirements for other diseases.

  (b) The rules promulgated under this subsection may include any of the following:

  1. Standards to be followed by persons keeping farm-raised deer to prevent the spread of disease.

  2. Provisions requiring that registration under this section be on an annual basis.

- **Section 95.60 Importing fish; fish farms.**

  (1) (e) A person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state is not required to have a permit under par. (a) if the person has a fish health certificate that covers the fish or fish eggs and that complies with the requirements for fish health certificates specified by the department by rule.

  (2) The department may promulgate rules, applicable to persons who operate fish farms, that require any evidence of fish health that the department determines is necessary.

  (3) (c) Except as provided in par. (d), a person who operates a fish farm shall keep records on purchases, sales and production of fish and fish eggs and any other records required by the department by rule. The department may inspect these records upon request.

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

The department estimates that it will use approximately 0.80 FTE staff to develop this rule. That includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. The department will use existing staff to develop this rule.

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

The proposed rule will have a direct impact on owners of bovines moved interstate (including rodeo and exhibition cattle), keepers of farm-raised deer, fish farmers, poultry farmers, military veterans and persons who import animals.

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

- Effective December 10, 2012, United States Department of Agriculture (USDA) rules, under 9 CFR ss. 55.23 (b) (4) and 55.25, established requirements for a Herd Certification Program (HCP) for Chronic Wasting Disease (CWD) in farm-raised or captive cervids in the United States. Wisconsin received contingent approval to implement the HCP for CWD in farmed or captive deer. This approval will allow owners of cervids who choose to participate in the CWD HCP to move deer interstate, provided the following requirements are met:

  (1) Any enrolled deer that is 12, rather than 16, months of age or older must be tested for CWD upon death.
  (2) A complete physical herd inventory must be performed for all enrolled herds, the first of which must be completed by December 31, 2015.
  (3) Each deer in an enrolled herd must have at least two forms of identification unique to the animal and securely attached by December 31, 2015 or as soon as a new deer is added to the herd from an outside source.

Wisconsin's program approval is contingent on aligning administrative rules with these requirements.

- On December 20, 2012, USDA announced a final rule establishing general regulations for improving the traceability of U.S. livestock moving interstate. Under the final rule, unless specifically exempted, livestock moved interstate must be officially identified and accompanied by an interstate certification of veterinary inspection or other documentation, such as owner-shipper statements.

  The definition of "official individual identification" in Wisconsin's administrative rules must be amended to align to the new federal traceability regulations.

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

The majority of these rule modifications will ease program requirements or are technical and will have no fiscal effect.

Modifications required to align with federal USDA regulations may have an economic impact on small business and include:

- Owners of rodeo and exhibition cattle must apply eartags to their cattle to improve traceability. However, because these eartags are free, the fiscal impact will be minimal.

- Keepers of farm-raised deer enrolled in the CWD herd status program will have to apply two forms of identification to each deer that is 12 months of age or older and provide a complete herd inventory every three years. This rule will have a greater fiscal impact on keepers of farm-raised deer that do not currently have facilities to catch deer, in order to apply the required identification to deer or to complete a herd inventory.

If these rule modifications are not promulgated, Wisconsin may jeopardize its approval from USDA to implement its HCP which allows keepers of farm-raised deer enrolled in the CWD herd status program to move deer interstate.

The rule may also establish training requirements for individuals approved by the department to collect CWD test samples. This will allow individuals, other than certified veterinarians, to collect CWD test samples and could save keepers of farm-raised deer a significant amount of money in collecting CWD test samples.

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Department Head or Authorized Signature

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Date Submitted