

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

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<b>IN THE MATTER OF A WAIVER OF</b>	)	<b>AH Docket No. 21-O-001</b>
<b>ANIMAL HEALTH RULES</b>	)	
<b>ss. ATCP 10.40 (6) (c)</b>	)	<b>ORDER GRANTING A WAIVER FROM</b>
<b>Wisconsin Administrative Code</b>	)	<b>THE REQUIREMENT THAT BIRDS TEST</b>
		<b>NEGATIVE FOR PULLORUM-TYPHOID</b>
		<b>BEFORE COMMINGLING AT A SWAP,</b>
		<b>SALE, OR AUCTION.</b>

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**INTRODUCTION**

Under s. ATCP 10.93, Wis. Admin. Code, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (department) may waive provisions of ch. ATCP 10, Wis. Admin. Code (Animal Diseases and Movement) if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department hereby makes the following findings and conclusions and issues the following order granting a waiver to the Pullorum-Typhoid testing requirement for birds commingled at a swap, sale, or auction under ATCP 10.40 (6) (c), Wis. Admin. Code.

**FINDINGS OF FACT**

(1) The department is responsible for administering Wisconsin’s animal health program under ch. 95, Wis. Stats. The program is designed to protect the health of animals in this state, and to prevent, control and eradicate communicable diseases among animals. The department has broad authority to adopt rules interpreting statutes under its jurisdiction. (See s. 93.07 (1), Wis. Stats.).

(2) Under s. ATCP 10.93, Wis. Admin. Code, the department may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

(3) Under s. ATCP 10.40 (6) (c), Wis. Admin. Code, birds belonging to a flock enrolled under sub. (2) or (3) or s. ATCP 10.41 may not be commingled with any birds that are not part of the flock, except at shows and exhibitions where all birds have tested negative for pullorum, fowl typhoid, and, in the case of turkeys, Mycoplasma gallisepticum.

(4) Section ATCP 10.01 (37), Wis. Admin. Code, defines “exhibition” as an organized fair, swap meet, rodeo, trail ride, show, or other organized event at which animals owned by different persons are brought together from different premises and exhibited on the same premises. “Exhibition” does not include any of the following:

- a) An animal market.
- b) An exhibition operated by an institution accredited by the association of zoos and aquariums.
- c) A wild animal exhibition operated pursuant to permit from the Wisconsin department of natural resources.

(5) Pullorum-Typhoid has not been reported in Wisconsin in the past 20 years and has not been reported in the U.S. in the past 10 years.

(6) Pullorum-Typhoid does not cause disease in humans.

(7) The National Poultry Improvement Plan (NPIP) does not require Pullorum-Typhoid testing for birds commingled at a swap, sale, or auction.

(8) Pullorum-Typhoid testing is costly.

(9) Pullorum-Typhoid testing does not address major poultry disease concerns associated with birds commingled at a swap, sale, or auction.

(10) A waiver to the requirements under ss. ATCP 10.40 (6) (c), Wis. Admin. Code, regarding Pullorum-Typhoid testing requirements for birds commingled at a swap, sale, or auction would be reasonable and necessary, consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, for animal disease control, and would not conflict with state statutes.

### **CONCLUSIONS OF LAW**

(1) This waiver does not affect any other provisions of ch. ATCP 10, Wis. Admin. Code.

(2) This waiver does not conflict with any requirements under ch. 95, Wis. Stats.

(3) Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department may grant a written waiver from a requirement under ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law.

(4) The department has made the findings required under s. ATCP 10.93, Wis. Admin. Code.

(5) Pursuant to s. ATCP 10.93, Wis. Admin. Code, and Findings of Fact (1) through (10), the department should waive the Pullorum-Typhoid testing requirements for birds commingled at a swap, sale, or auction under ss. ATCP 10.40 (6) (c), Wis. Admin. Code.

### **ORDER**

**NOW, THEREFORE, it is ordered** pursuant to s. ATCP 10.93, Wis. Admin. Code, that:

(1) The department grants a waiver to the Pullorum-Typhoid testing requirement for birds commingled at a swap, sale, or auction under ATCP 10.40 (6) (c), Wis. Admin. Code.

(2) This waiver will remain in effect until formally rescinded by order of the Secretary or State Veterinarian.

Dated this 10th day of February, 2021.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

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