

Report From Agency

**DATCP Docket No. 11-R-07
Rules Clearinghouse No. 12-024**

**Final Draft Rule
August 1, 2012**

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

2 The state of Wisconsin department of agriculture, trade and consumer protection proposes the
3 following order *to renumber* ATCP 17.02 (1) (note); *to renumber and amend* ATCP 17.02 (1);
4 *to amend* ATCP 17.02 (3) (b) (note); and *to create* 17.02 (1) (b) and (c) *relating to* livestock
5 premises registration.

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

DATCP administers Wisconsin’s animal health and disease control programs. Under current livestock premises registration law, a person who keeps livestock at a location in this state is required to register that location with the department.

Livestock premises registration periods are currently staggered so that some premises registrations end on December 31 of every year. This rule will end the staggering of registrations so that *all* premises registrations simultaneously end during the same three-year period as a cost savings measure. It will also end all registrations on July 31 instead of December 31 to ensure that the department can hire sufficient temporary staff to handle the increase in workload once every three years. The rule also will provide a religious exemption for certain individuals with sincerely held religious beliefs against certain livestock premises registration requirements under s. 95.51 (2), Stats., and ch. ATCP 17, Wis. Adm. Code. This rule will not increase costs for livestock operators.

Statutes Interpreted

Statute Interpreted: s. 95.51, Stats.

Statutory Authority

Statutory Authority: ss. 93.07 (1) and (10), 95.51 (3m) and (7), Stats.

Explanation of Agency Authority

DATCP has broad general authority to adopt rules interpreting statutes under its jurisdiction (*see* s. 93.07 (1), Stats.). DATCP is specifically authorized to adopt rules to protect the health of animals in this state, and to prevent, control and eradicate communicable diseases among animals. Under s. 95.51 (3m), Stats., DATCP has express authority to promulgate rules specifying exemptions to the livestock premises registration requirements in s. 95.51 (2), Stats. Also, under s. 95.51 (7), Stats., DATCP is authorized to promulgate rules for the administration of livestock premises registration law in s. 95.51, Stats.

Related Statutes or Rules

Animal health laws administered by DATCP are found primarily in Ch. 95, Stats. Animal health administrative rules are found primarily in chs. ATCP 1 to 17, Wis. Adm. Code.

Plain Language Analysis

Under current livestock premises registration law, s. 95.51, Stats., a person keeping livestock in this state must register each location where those livestock are kept. “Livestock” includes bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, captive game birds, camelids, ratites and fish.

Under current DATCP rules, a person’s livestock premises registration expires every three years on December 31. This rule changes the expiration date for all registrants to every third July 31 after July 31, 2013. This will expedite the renewal process by only having DATCP incur the cost of processing renewals every three years, during a time of year when temporary employees should be available.

Current rules do not provide for any exemptions to registering a livestock premises. This rule creates a limited exemption for those individuals who are members of recognized religious groups that have a sincerely held religious belief opposing certain existing livestock premises requirements. Among other things, this rule provides that an individual must submit an affidavit indicating that the individual is a member of an established religion with a sincerely held religious belief opposing livestock premises registration as mandated by s. 95.51, Stats. In order to protect animal health and the security of the food chain, the individual seeking a religious exemption must also provide required information that would assist the department in locating livestock.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

Most animal health regulations are adopted and administered at the state level. However, 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. States certify the disease status of

certain herds at the request of herd owners, to facilitate interstate movement of animals from those herds. States also license and regulate entities such as animal markets, animal dealers and animal truckers (regulations vary by state). Wisconsin's livestock premises registration program is a leading program in the nation and has provided a model for proposed federal programs.

State regulation of interstate animal movement is generally consistent with federal standards. However, states may impose additional import requirements if those requirements are reasonably designed to prevent the spread of disease. Wisconsin's current rules related to livestock premises registration are consistent with the federal system for registering livestock premises, although the federal program is voluntary. Premises registration is the foundation of the federal traceability law, which is scheduled to go into effect in 2012. This federal law has minimal requirements for interstate movement of livestock.

Comparison with Rules in Adjacent States

Surrounding state animal health programs are generally comparable to those in Wisconsin. However, disease regulations and control programs may reflect differences in animal populations, animal-based industries, and disease threats in the different states.

- Minnesota has mandatory livestock premises registration for farm-raised cervids and voluntary livestock premises registration for all other livestock. Any keeper of livestock can register. Information is updated if the producer provides the information.
- Iowa has voluntary livestock premises registration.
- Michigan has mandatory livestock premises registration for cattle. Cervids and aquaculture are required to be licensed by the Michigan Department of Natural Resources, and this includes a premises registration. All other livestock may be registered voluntarily. There is no specific renewal requirement for premises registration.
- Illinois has voluntary livestock premises registration. There is no renewal of premises registration.
- Indiana has mandatory livestock premises registration for cattle, sheep, goats, swine, bison and farmed cervids. Horses, aquaculture and poultry may register voluntarily. Renewal of premises registration is voluntary.

Summary of Factual Data and Analytical Methodologies

DATCP is relying on information obtained from certain religious communities, as well as staff expertise on animal disease control, to create a limited exemption to the livestock premises registration program. DATCP is extrapolating from costs of existing DATCP license and registration programs to determine a method of cost savings in the administration of the livestock premises registration program.

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

No specific documents were used.

Effect on Small Business

This rule will likely have a positive effect in terms of encouraging the expansion of certain businesses, including small businesses. Individuals with religious objections to the premises registration requirement may obtain an exemption to registration under this rule and be eligible for business licensure for which premises registration is a prerequisite, *e.g.*, deer farms or animal market operations.

This change of the due date to register premises, from December 31 to July 31, and the elimination of staggering the due dates will have no negative impact on businesses because there is no fee to register, regardless of the date the registration is due. (*See attached Business Impact Analysis*).

Fiscal and Economic Impact Analysis

The department anticipates no fiscal effect on state or local governments. The rule may result in an increase in the number of livestock operation business licenses issued by the department. See the attached Fiscal Estimate and Economic Impact Analysis.

DATCP Contact

Questions related to this rule may be directed to:

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E-Mail: datcphearingcommentsah@wisconsin.gov

The department held hearings on the proposed rule on May 1 and May 2, 2012, in Marshfield and Madison, Wisconsin. The closing period for rule comments was May 16, 2012.

- 1 **SECTION 1.** ATCP 17.02 (1) is renumbered ATCP 17.02 (1) (a) and amended to read:
- 2 ATCP 17.02 (1) ~~GENERAL.~~ (a) ~~A~~ Except as provided in par. (b), a person may not keep
- 3 livestock at a location in this state unless that location is registered under this section. There is

1 no fee to register. A registration expires ~~on the third December 31 after it is issued~~ every third
2 July 31 after July 31, 2013.

3 **SECTION 2.** ATCP 17.02 (1) (note) is renumbered (1) (a) (note).

4 **SECTION 3.** ATCP 17.02 (1) (b) and (c) are created to read:

5 ATCP 17.02 (1) (b) An individual may keep livestock at a location in this state without
6 registering the location under par. (a), provided all of the following apply:

7 1. The individual files with the department an affidavit swearing or affirming that the
8 individual is a member of, and follows, an established religion whose tenets and teachings
9 include a sincerely held religious belief opposing registration of a livestock premises as required
10 by s. 95.51 (2), Stats.

11 2. The individual provides the name and requested contact information of a religious
12 leader who can verify that the religion's tenets and teachings oppose registering a livestock
13 premises.

14 3. The individual files the information required under par. (c).

15 4. If additional livestock types are obtained, the individual agrees to contact the
16 department within 7 days to state what livestock are being kept.

17 (c) In addition to the requirements under par. (b), an individual shall file with the
18 department, on a form provided by the department, all the following information:

19 1. The individual's complete name and spouse's complete name, if married.

20 2. The individual's mailing address.

21 3. The address where livestock are kept, if different than the mailing address.

22 4. The individual's county of residence and the county of the livestock premises.

1 5. The individual's telephone number, or if the individual does not own a telephone, the
2 telephone number of a contact who can reach the individual in an emergency, if available.

3 6. The type of livestock operation.

4 7. The type of livestock or livestock carcasses kept on the premises.

5 **Note:** A person may obtain a form from the department using the information below:

6
7 Wisconsin Department of Agriculture, Trade and Consumer Protection
8 2811 Agriculture Drive
9 P.O. Box 8911
10 Madison, WI 53702-8911
11 Phone: (608) 224-4872

12 **SECTION 4.** ATCP 17.02 (3) (b) (note) is amended to read:

13 **Note:** A person may obtain an application form from the department using the
14 information below and may submit the completed form to the department at the
15 following address:

16
17 Wisconsin Department of Agriculture, Trade and Consumer Protection
18 2811 Agriculture Drive
19 P.O. Box 8911
20 Madison, WI 53702-8911
21 Phone: (608) 224-4872
22 E-mail: premises@datcp.state.wi.gov

23
24 **SECTION 5. EFFECTIVE DATE.** This rule takes effect on the first day of the month
25 following publication in the Wisconsin administrative register, as provided under s. 227.22 (2)
(intro.).

Dated this _____ day of _____, _____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: _____
Ben Brancel, Secretary