



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Report From Agency

DATE: February 15, 2022

TO: The Honorable Chris Kapenga
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
Madison, WI 53707-7882

The Honorable Robin Vos
Speaker, Wisconsin State Assembly
Room 217 West, State Capitol
PO Box 8953
Madison, WI 53708-8953

FROM: Randy Romanski, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Clearinghouse Rule 21-093 Final Draft Rule amending ATCP 160 relating to county and district fairs

Proposed Rule

The proposed rule is attached.

Reference to Applicable Forms

There are no applicable forms

Fiscal Estimate and EIA

The fiscal estimate and EIA are attached.

Detailed Statement Explaining the Basis and purpose of the Proposed Rule, Including How the Proposed Rule Advances Relevant Statutory Goals or Purposes

The purpose of the rule was to do a comprehensive rule of chapter ATCP 160 to identify and consider the following: updating any burdensome requirements; modernizing to allow for electronic technology; clarify requirements, including reporting and submission requirements; ensure statutorily compliant;

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update to current industry standards and practices; and update formatting to reflect current rule promulgation standards. In addition, the rule makes necessary updates resulting from 2015 Wisconsin Act 207.

The rule advances the statutory goal for equitable distribution of state aid among fairs and to effect wider participation and interest by the public in exhibits. In addition, the rule advances statutory purpose by utilizing current technology, meeting current industry standards, repealing obsolete provisions, removing redundancies, and creating clarity.

Summary of Public Comments and the Department's Responses, Explanation of Modifications to Proposed Rules Prompted by Public Comments

The Department held a public hearing on December 20, 202. The following people either testified at the hearing or submitted written comments:

Jayne Buttke representing Wisconsin Association of Fairs
Mary Check representing Rock County 4-H Fair and Wisconsin Association of Fairs District 4
Wayne Hoernke representing Lodi Agricultural Fair
Matt Immel representing Fond du Lac County Fair
Eric Johnson representing Lodi Agricultural Fair
Jolene Plautz representing Wisconsin Association of Fairs
Russ Rindsig representing Barron County Fair
Marla Stello representing La Crosse Interstate Fair
Rusty Volk representing Northwest State Fair

The Department summarizes the comments received either by hearing testimony or by written submission as follows:

Mary Check, Jolene Plautz, Russ Rindsig and Rusty Volk support the proposed rule as written.

Jayne Buttke supports the proposed rule. She noted that areas of importance supported by Wisconsin Association of Fairs include: an expiration date on judge's registrations in order to keep the judges' list current; the clarification of the rule, which has always been in place, regarding when an exhibitor goes to more than one fair and is paid premiums at both fairs, the subsequent fair can't claim a state aid reimbursement; and the creation of a department for dogs in open class because it expands opportunities for people not affiliated with farms to show at a fair. She also requested consideration of adding a provision to the rule indicating ATCP 160 is the minimum standards for state aided fairs but each fair can create stricter provisions as it is the fair that makes decisions on exhibits at their fair.

Wayne Hoernke does not support the proposed rule changes, specifically limiting premiums for sexually intact animals to animals registered as purebreds and limiting kid participation to only one fair.

Matt Immel supports the proposed rule. His comments referenced the fair representatives having input in the proposed rule, no change in policy regarding kid participation in fairs, and it cleans up redundancy throughout the rule.

Eric Johnson does not support the proposed rule, specifically ATCP 160.12 is inconsistent with other sections (ss. 160.13, 160.14, 160.16 and 160.52), which allow an exhibitor to enter three animals and all exhibits that are entered within the guidelines of a fairs premium book should be eligible for state aided premiums regardless if that exhibit has been shown at more than one fair.

Marla Stella commented that the age for kittens should be changed from eight to twelve months.

The Department explains modifications prompted by public comments as follows:

The proposed rule was modified as a result of public comments as follows:

- Section 16 was modified to allow sexually intact male animals that are not purebred but are registered by the appropriate breed association or society.
- Section 20 was modified to allow exhibitors to enter in the market beef classes up to three animals and receive up to two premiums in order to create consistency with the other species.
- Section 77 was modified to change the age for kittens to 12 months.

The Department received comments in support and opposition of the clarification in the proposed rule relating to multiple fairs being reimbursed with state funds for the same exhibit or animal. The Department did not make changes to the language in the proposed rule. The statutes require a more equitable distribution of state aid among fairs and to effect wider participation and interest by the public in exhibits. There is equitable distribution when state aid is paid on different exhibits rather than the same exhibit multiple times. The current rule has been interpreted differently. The proposed rule language creates clarification. The rule does not prohibit exhibitors from participating in multiple fairs.

The Department did not modify the rule to include a provision indicating these are the minimum standards for state aided fairs due to a determination that such a statement was unnecessary. The rules relate to requirements to receive state aid payments and not the overall governance of the fair. The fair board makes its own decisions regarding exhibits at its fair.

Response to Legislative Council Staff Recommendations

The Department accepted all of the Legislative Council Staff recommendations with the clarification that in Comment 2c, there appears to be a typographical error in the recommendation. Legislative Council Staff recommended a change to ATCP 169.04 and chapter ATCP 169 does not exist. The Department changed ATCP 160.04 (1) to ATCP 160.49 (1).

Report from the SBRRB and Final Regulatory Flexibility Analysis

This rule does not have an impact on small businesses. The Final Regulatory Flexibility Analysis is attached.