

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Dog Seller and Dog Facility Operator Fees

Adm. Code Reference: ATCP 16

Rules Clearinghouse#:

DATCP Docket #: 20-R-03

Rule Summary

The Dog Sellers and Facilities Program was created in 2011 to ensure the welfare of dogs and provide consumer protection. The Department licenses and inspects about 500 facilities under this program. The minimum licensing fees were set when the program began and have not changed since 2011.

The program revenue appropriation (appropriated by Wis. Stat. § 20.115 (2) (j)) does not have adequate revenue to recover costs. The Department is not able to reduce expenditures to the level of current revenues without resulting in a failure to fulfill statutory requirements.

The Department convened an ATCP 16 Advisory Committee to advise the Department in relation to the Statement of Scope (SS 093-20), pertaining to license fees and reinspection fees for dog sellers and dog facility operators. The Committee was comprised of representatives from each of the groups under Wis. Stat. § 173.41 (14) (b).

This rule proposal includes a 100% license fee increase for shelter/control facilities, a 120% license fee increase for all other entities, and a 167% reinspection fee increase. The table below shows the current and proposed license and reinspection fee amounts, the amount of each change, the number of licensees in each category, and the average reinspection count each year.

Fee Proposal

Description	Current Fee	Proposed Fee	\$ Change	% Change	# Licenses/ Reinspect.
In-State License					
Dog Sellers: # Dogs/Year					
25-49	\$250	\$550	\$300	120%	114
50-99	\$500	\$1,100	\$600	120%	101
100-249	\$750	\$1,650	\$900	120%	75
250 or more	\$1,000	\$2,200	\$1,200	120%	27
Shelter/Control Facility	\$125	\$250	\$125	100%	179
Out-Of-State License					
Dog Sellers: # Dogs/Year					
25-49	\$375	\$825	\$450	120%	6
50-99	\$750	\$1,650	\$900	120%	2
100-249	\$1,125	\$2,475	\$1,350	120%	1
250 or more	\$1,500	\$3,300	\$1,800	120%	1
Shelter/Control Facility	\$188	\$375	\$188	100%	
Reinspection	\$150	\$400	\$250	167%	23

The proposed fees would ensure recovery of annual program costs and would gradually eliminate the current and projected deficit over five years. Without the proposed fee increase, the appropriation would continue to operate in a negative cash balance until a different change occurs, such as the creation of an alternative funding source or a statutory change. The department would continue to report the negative cash balance to the Joint Committee on Finance.

Small Businesses Affected

The proposed rule would impact persons who annually sell 25 or more dogs from more than three litters or operate animal shelters. There are currently 506 licensees:

- 120 entities licensed to sell or offer to sell at least 25 but fewer than 50 dogs per year
- 103 entities licensed to sell or offer to sell at least 50 but fewer than 100 dogs per year
- 76 entities licensed to sell or offer to sell at least 100 but fewer than 250 dogs per year
- 28 entities licensed to sell or offer to sell 250 or more dogs per year
- 179 entities licensed to operate an animal shelter or animal control facility

The proposed rule would also impact consumers, pet owners, and other persons and groups affected by the Department fulfilling its duties under Wis. Stat. § 173.41. For example, Wis. Stat. § 173.41 (6) requires the Department to inspect the premises at which a person who is required to obtain a license operates before issuing the initial license and at least every two years after the year in which the person is first licensed. These inspections are critical to ensure that licensed entities are meeting health requirements for selling dogs, the age for the transfer of a puppy, standards of care, and recordkeeping requirements, which are required under sections 173.41 (8), (9), (10), and (11), Wis. Stats., respectively. The proposed rule would ensure program revenue funding through fees to continue these statutorily required inspections and protect animal health and wellbeing, human health, and consumer protection.

In 2019, the Department held three listening sessions with stakeholders to brainstorm solutions to the current financial under-recovery and get their individual points of view about the possible pros and cons of alternatives to address the financial under-recovery. No stakeholder expressed that the current fees should not be evaluated and no stakeholder expressed an interest in removing or reducing the activities of the programs.

The Department held a preliminary hearing on the statement of scope (SS 093-20) on August 20, 2020, with comments open until August 27, 2020. The Department received two comments during the preliminary hearing. Both comments requested that the Department exempt shelter/control facilities from a fee increase.

The Department convened an ATCP 16 Advisory Committee to advise the Department in relation to the Statement of Scope (SS 093-20). The Committee was comprised of representatives from each of the groups under Wis. Stat. § 173.41 (14) (b). The Committee met on March 2, 2021 to discuss potential fee options.

All members of the ATCP 16 Advisory Committee expressed support of an option to increase license fees to recover the annual costs and recover the projected deficit over five years. Individual members either expressed support of increasing all license fees by an equal percentage or expressed support of increasing the license fees for shelter/control facilities by 100% and all other license fees by a higher amount.

Those supporting an equal percentage expressed that all licensees should have to share in the cost of operating and should not be exempt from cost increases over time. Those supporting a lower percentage for shelter/control facilities expressed that shelter/control facilities are non-profit entities and that an increase of more than 100% would have a significant impact to small shelters in rural communities.

All members of the ATCP 16 Advisory Committee expressed support of increasing the reinspection fee by a higher percentage than the license fee. The Department analyzed the cost of conducting reinspections over the past few years. The cost of a reinspection varies depending on the extent of issues to address and the time required. The average cost of a reinspection is approximately \$400.

Reporting, Bookkeeping and other Procedures

The proposed rule will not require any additional reporting, bookkeeping, or other procedures beyond what is already required of dog sellers and dog facility operators in the current version of Wis. Admin. Code ch. ATCP 16.

Professional Skills Required

The proposed rule does not require any new professional skills from small businesses.

Accommodation for Small Business

Pursuant to Wis. Stat. § 227.22 (2) (e), the rule will apply to small businesses on the first day of the 3rd month commencing after the date of publication of the rule. Based on current projections for the timeline of the rule process, the proposed rule would become effective for all entities by the beginning of Fiscal Year 2024 (July 1, 2023).

Conclusion

The proposed rule would increase license and reinspection fees for dog sellers and dog facility operators. Most or all affected entities are small businesses, pursuant to the definition under Wis. Stat. § 227.485 (2) (c). The proposed rule includes a 100% license fee increase for shelter/control facilities, a 120% license fee increase for all other entities, and a 167% reinspection fee increase.

The overall anticipated economic impact is estimated to be moderate but could be significant for individual entities depending upon the individual business. Pursuant to Wis. Stat. § 227.22 (2) (e), the rule will apply to small businesses on the first day of the 3rd month commencing after the date of publication of the rule. Based on current projections for the timeline of the rule process, the proposed rule would become effective for all entities by the beginning of Fiscal Year 2024 (July 1, 2023).