

Clearinghouse Rule 98-152

STATE OF WISCONSIN

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Clearinghouse Rule

DEPARTMENT OF AGRICULTURE,
TRADE & CONSUMER PROTECTION

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No. 98-152

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Docket No. 98-R-13

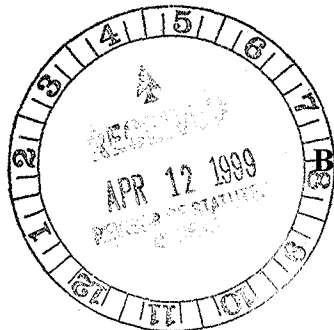
CERTIFICATION:

I, Ben Brancel, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to licensing fees charged to livestock markets, livestock dealers, and livestock truckers, registration fees charged to the keepers of farm-raised deer, fees charged for a permit to operate an approved feedlot, and the fee charged to an accredited veterinarian when the veterinarian obtains, from the department of agriculture, trade and consumer protection, forms to be used in issuing interstate health certificates or certificates of veterinary inspection was signed and adopted by the department on April 12, 1999.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

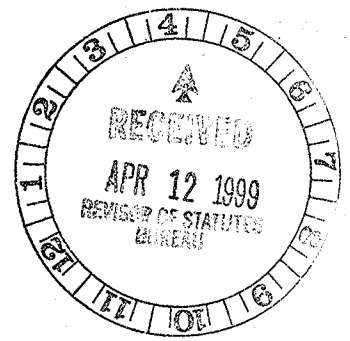
Signed and sealed this 12th day of April, 1999.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION



By Ben Brancel
Ben Brancel, Secretary

6-1-99



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

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The state of Wisconsin department of agriculture, trade and consumer protection adopts the following order to repeal ATCP 10.652 (2)(b) and (4)(f); to renumber and amend ATCP 10.652(2)(a) 12.03 (2m)(c) second occurrence, 12.03(2m)(d) and 12.04 (2m)(c) second occurrence and 12.04(2m)(d); to amend ATCP 10.652(4)(intro), 11.14(2), 12.02 (2m)(a) and (b), 12.03 (2m)(a) and (b), and 12.04 (2m)(a) and (b); to repeal and recreate ATCP 10.652 (5); and to create ATCP 11.02 (2m); relating to licensing fees charged to livestock markets, livestock dealers, and livestock truckers, registration fees charged to the keepers of farm-raised deer, fees charged for a permit to operate an approved feedlot, and the fee charged to an accredited veterinarian when the veterinarian obtains, from the department of agriculture, trade and consumer protection, forms to be used in issuing interstate health certificates or certificates of veterinary inspection.

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

Statutory authority: ss. 93.06 (1g), 93.07(1), 95.55(3), 95.68(8), 95.69(8), 95.71(8), and 95.715(2)(d), Wis. Stats.
Statutes interpreted: ss. 93.06(1g), 95.55(3), 95.68(4), 95.69(4), 95.71(5), and 95.715(2)(a), Wis. Stats.

This rule changes the fees charged for obtaining a livestock market license, a livestock dealer license, a livestock trucker license, a livestock vehicle registration, an approved feedlot permit and forms to be used by accredited veterinarians for interstate health certificates or certificates of veterinary inspection. It also removes the provisions in

current rules which eliminate the registration fee for farm-raised deer after December 31, 1998, and which exempt owners of certified accredited tuberculosis-free farm-raised deer herds from paying registration fees. In each instance the statutes either direct the department to establish fees by rule, or establish a fee which will apply unless the department specifies a different fee by rule.

Farm-Raised Deer Registrations

Under s. 95.55(3), Wis. Stats., the department is required to specify, by rule, the fee for registration for a person keeping farm-raised deer. The current rule, s. ATCP 10.652(5)(a) Wis. Admin. Code, establishes a fee of \$50 if the person keeps no more than 15 farm-raised deer. If the person keeps more than 15 farm-raised deer, the fee is \$100. The current rule indicates that these fees do not apply after December 31, 1998, and they do not apply if the herd is certified as an accredited tuberculosis-free herd by the department. In addition, a person who holds a valid registration on December 31, 1998, is not required to apply for annual renewal of the registration, rather the registration remains in effect until suspended or revoked by the department.

Under this rule, the fee of \$50 for a person who keeps no more than 15 farm-raised deer and \$100 for a person who keeps more than 15 farm-raised deer is unchanged. However, the exemption from payment of the fee after December 31, 1998, and the exemption from payment of the fee if the herd is certified as an accredited tuberculosis-free herd are removed. People who keep farm-raised deer will be required to register and pay the fee annually. The department needs to continue collecting these fees to enable the department to continue to assist the industry in disease control efforts, and to protect the dairy industry from diseases which might be transmitted from farm-raised deer to dairy cattle.

Livestock Market Licenses

Livestock market license fees are currently established by s. 95.68(4), Wis. Stats., and s. ATCP 12.02(2m), Wis. Admin. Code. A livestock market, other than an equine market, which holds 5 or more sales per year is required to pay an annual fee of \$150. A livestock market, other than an equine market, which holds fewer than 5 sales per year is required to pay an annual fee of \$75. An equine market is required to pay an annual fee of \$100. In addition, the holder of a livestock market license is required to pay an annual fee of \$5 for each livestock vehicle registered by the livestock market licensee. The statute authorizes the department to change these fees by rule.

Under this rule, the annual fee for a livestock market, other than an equine market, which holds 5 or more sales in a year is \$225. The annual fee for a livestock market, other than an equine market, which holds fewer than 5 sales in a year is \$115. The annual fee for an equine market is \$150. The annual fee to register each livestock vehicle is \$10.

The department needs this fee increase to permit it to continue its efforts to control the potential spread of animal disease through the marketing system.

Livestock Dealer Licenses

Livestock dealer license fees are currently established by s. 95.69(4), Wis. Stats., and s. ATCP 12.03(2m), Wis. Admin. Code. Under these provisions, a livestock dealer pays an annual fee of \$75 for the license and an annual fee of \$5 for each livestock vehicle registered. The statute authorizes the department to change these fees by rule.

Under this rule, the livestock dealer will be required to pay an annual license fee of \$115 for the license and an annual fee of \$10 for each livestock vehicle registered.

The department needs this fee increase to permit it to continue its efforts to control the potential spread of animal disease through the dealers' operations. It particularly needs this to enable it to conduct random records checks among dealers to assure that the department will be able to use dealer records to complete a traceback of all animals which have been in contact with an animal that has been identified as an animal infected with serious contagious diseases like tuberculosis or brucellosis.

Livestock Trucker Licenses

Livestock trucker license fees are currently established by s. 95.71(5), Wis. Stats., and s. ATCP 12.04(2m), Wis. Admin. Code. Under these provisions a livestock trucker pays an annual fee of \$20 for the license and an annual registration fee of \$5 for each livestock vehicle registered. The statute specifically authorizes the department to change these fees by rule.

Under this rule, the livestock trucker would be required to pay an annual license fee of \$30 and an annual registration fee of \$10 for each livestock vehicle registered.

The department needs this fee increase to permit it to monitor trucker activities to assure they handle animals humanely and maintain records which may play a crucial role in the traceback of disease should the need arise.

Approved Feedlot Permits

The current approved feedlot permit fee is established by s. ATCP 11.14(2), Wis. Admin. Code, under the authority of s. 95.715(2)(d), Wis. Stats. The person holding or seeking an approved feedlot permit pays an annual fee of \$50.

Under this rule, the permit fee for an approved feedlot would be \$75.

The department needs this fee increase to permit it to continue its efforts to assure that no disease is introduced to Wisconsin's animal industry from animals imported to or kept in an approved feedlot.

Interstate Health Certificate Forms

Under s. 93.06(1g), Wis. Stats., the department may furnish veterinarians with forms which are to be used by them to issue interstate health certificates or certificates of veterinary inspection. The statute provides that the charge for these blank forms will be \$2 unless the department specifies a different fee by rule.

Under this rule, the fee for forms to be used for interstate health certificates or certificates of veterinary inspection will be \$3 per form.

The department needs this fee increase to offset the increased cost of monitoring the interstate shipment of animals.

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SECTION 1. ATCP 10.652(2)(a) is renumbered ATCP 10.652(2) and amended

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to read:

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ATCP 10.652(2) REGISTRATION CERTIFICATE EXPIRES. ~~(a) Except as~~

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~~provided under par. (b), a~~ A registration certificate under sub. (1) expires on December 31

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each year. The holder of a registration certificate may renew that certificate by

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submitting an annual renewal application under sub. (4).

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SECTION 2. ATCP 10.652(2)(b) and (4)(f) are repealed.

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SECTION 3. ATCP 19.652(4)(intro) is amended to read:

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ATCP 10.652(4)(intro) APPLYING FOR REGISTRATION CERTIFICATE. To

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obtain or renew a registration certificate, a person keeping farm-raised deer shall file a

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registration application on a form provided by the department. The application shall be

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accompanied by the fee, ~~if any,~~ that is required under sub. (5). The application form shall

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include all of the following information.

1 **SECTION 4.** ATCP 10.652(5) is repealed and recreated to read:

2 ATCP 10.652(5) FEES. A person applying for a registration certificate shall pay
3 the following annual registration fee:

4 (a) \$50 if the person keeps no more than 15 farm-raised deer at the locations
5 covered by the certificate.

6 (b) \$100 if the person keeps more than 15 farm-raised deer at the locations
7 covered by the certificate.

8 NOTE: Under s. 93.21(5)(b), Stats., a person who files an application for the
9 renewal or reissuance of a registration certificate after the registration certificate has
10 expired must pay, in addition to the fee prescribed under sub. (5), an additional fee equal
11 to 20 percent of this fee.
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13 **SECTION 5.** ATCP 11.02(2m) is created to read:

14 ATCP 11.02(2m) OBTAINING FORM FOR INTERSTATE HEALTH
15 CERTIFICATE OR CERTIFICATE OF VETERINARY INSPECTION. An accredited
16 veterinarian in the state of Wisconsin may obtain forms to be used to provide an interstate
17 health certificate or certificate of veterinary inspection from the department. A fee of \$3
18 will be charged for each form provided.

19 NOTE: Accredited veterinarians may pay the fee and obtain the forms by
20 contacting the department at the following address:

21
22 Wisconsin Department of Agriculture, Trade and Consumer Protection
23 Wisconsin Animal Health Laboratory
24 6101 Mineral Point Road
25 Madison, WI 53705-4494
26 Phone: (608) 266-2465, (800) 608-8387
27 Fax: (608) 267-0636
28

29 **SECTION 6.** ATCP 11.14(2) is amended to read:

1 ATCP 11.14(2) PERMIT APPLICATION. To obtain an approved feedlot permit,
2 a feedlot operator shall submit an application on a form provided by the department. The
3 application shall identify the location of the feedlot by county, township and section, and
4 shall include other relevant information required by the department. The application shall
5 be accompanied by a fee of ~~\$50~~ \$75. The department shall grant or deny a permit
6 application within 30 days after a complete application is filed with the department.

7 **SECTION 7.** ATCP 12.02(2m)(a) and (b) are amended to read:

8 ATCP 12.02(2m) LICENSE FEES. (a) A livestock market operator shall pay a
9 basic annual license fee as follows:

10 1. For a livestock market, other than an equine market, that has conducted sales
11 on 5 or more days during the year immediately preceding the year for which the license is
12 issued, a fee of ~~\$150~~ \$225.

13 2. For a livestock market, other than an equine market, that has conducted sales
14 on fewer than 5 days during the year immediately preceding the year for which the
15 license is issued, a fee of ~~\$75~~ \$115.

16 3. For an equine market, a fee of ~~\$100~~ \$150.

17 (b) A livestock market operator shall pay, in addition to the basic license fee
18 under par. (a), a supplementary annual license fee of ~~\$5~~ \$10 for each livestock vehicle
19 registered by the livestock market operator under sub. (2r).

20 **SECTION 8.** ATCP 12.03(2m)(a) and (b) are amended to read:

21 ATCP 12.03(2m) LICENSE FEES. (a) A livestock dealer shall pay a basic
22 annual license fee of ~~\$75~~ \$115.

1 (b) A livestock dealer shall pay, in addition to the basic license fee under par. (a),
2 a supplementary annual license fee of ~~\$5~~ \$10 for each livestock vehicle registered by that
3 livestock dealer under sub. (2r).

4 **SECTION 9.** ATCP 12.03(2m)(c) second occurrence is renumbered ATCP
5 12.04(2m)(d) and amended to read:

6 ATCP 12.03(2m)(d) If a livestock dealer is required to pay a surcharge under par.
7 ~~(b)~~ (c), that livestock dealer shall also pay any fees that are due for the year in which that
8 livestock dealer violated sub. (1) or (2r).

9 **SECTION 10.** ATCP 12.03(2m)(d) is renumbered ATCP 12.03(2m)(e) and
10 amended to read:

11 ATCP 12.03(2m)(e) Payment of a surcharge under par. ~~(b)~~ (c) or fees under par.
12 ~~(e)~~ (d) does not relieve a livestock dealer of other civil or criminal liability that may result
13 from a violation of sub. (1) or (2r), nor does it constitute evidence of a violation.

14 **SECTION 11.** ATCP 12.04(2m)(a) and (b) are amended to read:

15 ATCP 12.04(2m) LICENSE FEES. (a) A livestock trucker shall pay a basic
16 annual license fee of ~~\$20~~ \$30.

17 (b) A livestock trucker shall pay, in addition to the basic license fee under par.
18 (a), a supplementary annual license fee of ~~\$5~~ \$10 for each livestock vehicle registered by
19 the livestock trucker under sub. (2r).

20 **SECTION 12.** ATCP 12.04(2m)(c) second occurrence is renumbered ATCP
21 12.04(2m)(d) and amended to read:

1 ATCP 12.04(2m)(d) If a livestock trucker is required to pay a surcharge under par.
2 ~~(b)~~ (c), that livestock trucker shall also pay any fees that are due for the year in which that
3 livestock trucker violated sub. (1) or (2r).

4 **SECTION 13.** ATCP 12.04(2m)(d) is renumbered ATCP 12.04(2m)(e) and
5 amended to read:

6 ATCP 12.04(2m)(e) Payment of a surcharge under par. ~~(b)~~ (c) or fees under par.
7 ~~(e)~~ (d) does not relieve a livestock trucker of other civil or criminal liability that may
8 result from a violation of sub. (1) or (2r), nor does it constitute evidence of a violation.

9 **EFFECTIVE DATE:** The rules contained in this order shall take effect on the
10 first day of the month following publication in the Wisconsin administrative register, as
11 provided in s. 227.22(2)(intro.), Wis. Stats.

Dated this 10th day of April, 1999.

STATE OF WISCONSIN DEPARTMENT
OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



State of Wisconsin
Tommy G. Thompson, Governor



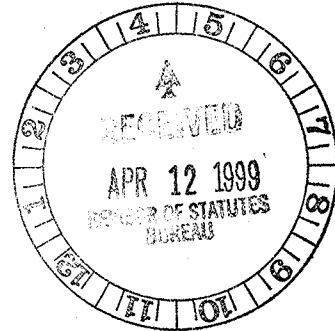
Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: April 12, 1999

TO: Gary Poulson - Revisor of Statutes Office
131 West Wilson Street, Suite 800

FROM: Ben Brancel, Secretary *Ben Brancel*

SUBJECT: Clearinghouse Rule No. 98-152, Chapters 10 and 11, Fees Related to Livestock Markets, Livestock Dealers, Livestock Truckers, Approved Feed Lot Operators, Keepers of Farm-Raised Deer and Forms for Interstate Health Certificates or Certificates of Veterinary Inspection



The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing with the above rule.

Final Regulatory Flexibility Analysis

General Overview

This rule changes the fee charged for a livestock market license, a livestock dealer license, a livestock trucker license, a livestock vehicle registration, an approved feedlot permit and an interstate health certificate or certificate of veterinary inspection form. This rule also continues the annual registration process for farm-raised deer which expired on December 31, 1998, and eliminates any farm-raised deer registration fee exemptions.

This rule will affect small businesses in Wisconsin. It includes provisions which relate to small businesses engaged in livestock activities such as marketing, dealing, trucking and feedlot raising, veterinary services and the farming of farm-raised deer.

Livestock Market, Dealer and Trucker Licenses and Approved Feedlot Permits

Wisconsin statutes require a person operating a livestock market or operating as a livestock dealer or livestock trucker to be licensed by the Department of Agriculture, Trade and Consumer Protection. Additionally, any livestock vehicles used by the person to transport livestock in the state must also be registered by the department. Wisconsin statutes also authorize the department to issue approved feedlot permits. The department has statutory authority to set fees for these licenses and permits by rule.

This rule changes the fee for a basic annual license as follows:

For a livestock market operator:

For a market, other than an equine market, conducting sales on 5 or more days a year, the fee changes from \$150 to \$225.

For a market, other than an equine market, conducting sales on fewer than 5 days a year, the fee changes from \$75 to \$115.

For an equine market, the fee changes from \$100 to \$150.

For a livestock dealer:

The fee changes from \$75 to \$115.

For a livestock trucker:

The fee changes from \$20 to \$30.

This rule changes the fee that a livestock market operator, livestock dealer and livestock trucker must pay for a supplementary annual license for each livestock vehicle registered from \$5 to \$10. This rule also changes the fee that a feedlot operator must pay for an approved feedlot permit from \$50 to \$75.

Many small businesses involved in livestock activities across Wisconsin will be affected by these fee increases. Presently, 62 basic annual livestock market licenses, 457 basic annual livestock dealer licenses, 486 basic annual livestock trucker licenses and 50 approved feedlot permits are issued along with 3,359 supplementary annual licenses for registered livestock vehicles. The department does not have adequate information to allow it to determine how many of these businesses fit the definition of small businesses. The department assumes that a significant number of these businesses are properly classified small businesses.

These small businesses will experience an increase in the cost of obtaining licenses, permits or certificates related to their business. The actual dollars of the increases vary from \$5 for livestock vehicles to \$75 for livestock market operators who conduct more than 5 sales per year. The benefit to these businesses of having the department provide services designed to assure the health of animals in Wisconsin animal agriculture far outweighs the amount of additional fees which each business will pay.

The regulatory work performed by the department is essential to the control of animal diseases in the state thus creating a viable environment for these small businesses to operate in. The department enforces requirements designed to prevent the introduction of diseased animals, conducts surveillance programs designed to detect diseases and takes steps to control outbreaks

of contagious diseases. These department services help to ensure healthy livestock and a strong continuing animal agriculture industry for the state.

There are no requirements in this rule relating to recordkeeping or reporting information to the department.

Interstate Health Certificate Forms

The department presently furnishes veterinarians in the state with forms which are used by them to issue interstate health certificates or certificates of veterinary inspection. The current fee for a form is \$2.

This rule changes the form fee from \$2 to \$3.

All veterinary services in the state that issue interstate health certificate forms will be affected by this fee increase. Health certificates are prepared for the movement of animals. Approximately 28,000 health certificate forms are sold by the department each year. This fee increase will increase the operating costs of these veterinary services in direct proportion to the number of health certificate forms they issue.

Interstate health certificates serve as a mechanism to regulate the animal industries of the state. They guarantee the movement of healthy animals, thus providing protection to the animal owners of the state and reducing any public health risk. This fee increase supports the department's continuing efforts to ensure the health of the animals in the state resulting in savings in the future for the Wisconsin animal owner.

This rule does not add any recording keeping or reporting requirements to small businesses.

Farm-Raised Deer Registrations

Wisconsin statutes require a person keeping farm-raised deer to register with the department. Wisconsin statutes also authorize the department to set fees for farm-raised deer registration by rule. The department established an annual registration and the following annual fees:

\$50, for 15 or fewer farm-raised deer.

\$100, for more than 15 farm-raised deer.

\$0, if the herd of farm-raised deer is certified by the department as an accredited tuberculosis-free herd.

The department also set both these requirements, the annual registration (renewal) and the annual fee, to end on December 31, 1998.

This rule eliminates this sunset provision. Fees will continue at the same level, except the exemption for an accredited tuberculosis-free herd is removed. All farm-raised deer owners are required to register annually and pay the applicable fee.

Approximately 280 farm-raised deer farms exist that are impacted by this rule change. These farmers have paid annual registration fees up through and including 1998. This rule does not change or increase the fees which they have paid. It increases their anticipated costs of doing business because it requires payment of a fee which the farmers expected to be sunset at the end of 1998. A small number of these farmers, less than 30, presently pay no fee since they have herds certified as accredited tuberculosis-free herds by the department. These farmers will experience an increase in annual costs since they are now required to pay a registration fee.

Whether or not a fee is applicable, all farm-raised deer farmers were required to complete an annual registration application. Under the current rule, the requirement to file an annual registration application sunset at the end of 1998. Therefore, there is a minimal additional requirement of requiring these businesses to continue to file the application form which they have previously filed. This form is very short and does not require extensive time or effort to complete.

The department has incurred substantial costs in responding to the needs of the farm-raised deer industry to date. Continuation of farm-raised deer registration fees will help to maintain essential program work. The recent state cervidae tuberculosis outbreaks signify the necessity of an animal health program for deer and elk. The growth and prosperity of the industry is dependent upon healthy stock. The benefit to the industry of having this department work continued exceeds the costs incurred to comply with this rule.

Comments from Legislative Committees

On February 8, 1999, this department transmitted the above rule for legislative committee review. On February 9, the rule was assigned to the Assembly Committee on Agriculture and on February 10, the rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform.

The Assembly Committee on Agriculture held a public hearing on March 11 and on April 1, the committee released the rule not taking any action on it. The Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform did not take any action on the rule during its review period.