

2009 DRAFTING REQUEST

Bill

Received: 09/30/2008

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 266-1103

By/Representing: Miner

This file may be shown to any legislator: NO

Drafter: tkuczens

May Contact:

Addl. Drafters:

Subject: Agriculture - other
Agriculture - animals

Extra Copies: RCT

Submit via email: NO

Pre Topic:

DOA:.....Miner, BB0142 -

Topic:

Animal health program changes

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/P1	tkuczens 10/21/2008	csicilia 10/24/2008	rschluet 10/24/2008		cduerst 10/24/2008		State
	tkuczens 11/12/2008	csicilia 11/13/2008					
/P2			mduchek 11/13/2008		lparisi 11/13/2008		

FE Sent For:

<END>

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FE Sent For:

p2 cjs 11/13 11/13 <END> 11/13
08 M M/13

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/?

tkuczens

PI qs 10/24/08

JH
10248
<END>

FE Sent For:

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Animal Health Program Changes
- Tracking Code: BB0142
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner *AM*
 - Phone: 266-1103
 - Email: andrew.miner@wisconsin.gov
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): Medium

Intent: Make the following changes to Animal Health programs with regard to establishing an animal health reinspection fee, fish farm inspections and fish indemnities. See attached sheets for language suggestions.

3. Animal Health

Animal Health Reinspection Fee

When DATCP finds that a licensed facility is in violation of animal health laws, DATCP may need to perform a reinspection to ensure that the violation has been corrected. DATCP incurs added costs for these reinspections. DATCP proposes budget legislation that would authorize DATCP to charge a reinspection fee to the licensed operator of the facility. This is similar to reinspection fees charged under other DATCP inspection programs, including the food safety inspection program.

see 97.20(2n)
97.21(4)(c)

The proposed legislation would authorize DATCP to charge reinspection fees to the following licensed operations:

- ✓ • Animal markets. 95.68
 - ✓ • Animal dealers. 95.69
 - ✓ • Animal truckers. 95.71
 - ✓ • Fish farms. 95.60
 - Farm-raised deer herds and hunting preserves. 95.55
- regulated by DKR under ch. 169?

The proposed legislation would authorize DATCP to set reinspection fees by rule. Reinspection fees must be reasonably related to reinspection costs. DATCP may bill the reinspection fee to the licensed operator as part of the operator's annual license renewal.

Fish Farm Inspections

DATCP has broad statutory authority to conduct inspections of fish farms and other animal facilities. DATCP normally determines its inspection priorities based on disease risks, staff availability and other factors. However, s. 95.60(4)(a), Stats., currently *requires* DATCP to inspect *every* fish farm (including fish farms that pose little disease risk) when DATCP first registers that fish farm.

DATCP does not have enough staff to inspect every fish farm at the time of initial registration. DATCP therefore proposes budget legislation to repeal the mandatory initial inspection requirement. DATCP could still, by rule, require mandatory initial inspections of those types of fish farms that pose the greatest disease risk (e.g., fish farms that ship live fish other than for processing, or that receive fish from wild sources). -7 create this as a new rule?

Fish Indemnities

Under current law, DATCP must pay indemnities to the owners of certain animals, including fish, if DATCP orders the destruction of those animals for disease control purposes. Under current law, DATCP may only pay indemnities for fish species that are raised primarily to produce food for human consumption. DATCP proposes budget legislation to provide indemnities to owners of condemned fish, regardless of the purpose for which the fish are raised.

Statutory Language:

SECTION ____. 95.31(3) and (4) of the statutes are amended to read:

95.31(3) In addition to the indemnities for specific animal diseases provided under ss. 95.25, 95.26 and 95.27 or under special emergency programs and subject to s. 95.36, the department shall pay indemnities on livestock condemned and slaughtered or destroyed because of other diseases if the department determines that the condemnation and slaughter or destruction is necessary to protect public health or the livestock industry. The indemnity under this section shall be two-thirds of the difference between net salvage value and appraised value, but may not exceed \$1,500 for an animal, except as provided in sub. (3m). As used in this subsection, "livestock" means animals of species raised primarily to produce food for human consumption, including farm-raised deer, and fish raised on a fish farm for any purpose.

(4) In the event of a major or serious outbreak of a contagious or infectious disease that may affect public health or the health of animals and that requires special control measures, the department may request the joint committee on finance to release funds appropriated under s. 20.115(2)(b) as needed to conduct emergency control programs independently or in cooperation with federal or local units of government ~~and, subject to s. 95.36, and to pay indemnities on animals of species raised primarily to produce food for human consumption, including farm-raised deer condemned and slaughtered or destroyed under sub. (3) for eligible animals that the department condemns~~ under the emergency control programs. ~~For all indemnities paid under this subsection, the state shall pay two-thirds of the difference between the net salvage value and the appraised value of an animal, except that no payment may exceed \$1,500 for an animal.~~

SECTION ____. 95.55(3) of the statutes is amended to read:

95.55(3) FEE. The department shall, by rule, specify the fee for registration under this section, including any reinspection fees required under s. 95.90.

SECTION ____. 95.60(4)(a) of the statutes is repealed.

SECTION ____. 95.60(5) of the statutes is amended to read:

95.60(5) The department shall, by rule, specify the fees for permits, certificates, registration and inspections under this section, including any reinspection fees required under s. 95.90.

SECTION ____. 95.68(4) of the statutes is repealed and recreated to read:

95.68(4) FEES; GENERAL. A license application under sub. (3) shall include all of the following:

- (a) A license fee established by the department by rule.
- (b) Any surcharge and past fees required under sub. (5).
- (c) Any reinspection fees required under s. 95.90.

[DRAFTER'S NOTE: DATCP has already modified by rule the statutory fee amounts specified in s. 95.68(4), so this legislation repeals those obsolete amounts.]

SECTION ____. 95.69(4) of the statutes is repealed and recreated to read:

95.69(4) FEES; GENERAL. A license application under sub. (3) shall include all of the following:

- (a) A license fee established by the department by rule.
- (b) Any surcharge and past fees required under sub. (5).
- (c) Any reinspection fees required under s. 95.90.

[DRAFTER'S NOTE: DATCP has already modified by rule the statutory fee amount specified in s. 95.69(4), so this legislation repeals that obsolete amount.]

SECTION ____. 95.71(5) of the statutes is repealed and recreated to read:

95.71(5) FEES; GENERAL. A license application under sub. (3) shall include all of the following:

- (a) A license fee established by the department by rule.
- (b) A registration fee, established by the department by rule, for each animal transport vehicle registered by the applicant. If during any license year an animal trucker registers an animal transport vehicle that was not registered with the animal trucker's annual license application under sub. (3), the animal trucker shall pay the registration fee at the time of registration.
- (c) Any surcharge and past fees required under sub. (5).
- (d) Any reinspection fees required under s. 95.90.

[DRAFTER'S NOTE: DATCP has already modified by rule the statutory license and vehicle registration fee amounts specified in s. 95.71(5), so this legislation repeals those obsolete amounts.]

SECTION ____. 95.90 of the statutes is created to read:

95.90 Reinspection; fee. (a) If the department reinspects a facility or operation that is required to be licensed or registered under s. 95.55, 95.60, 95.68, 95.69 or 95.71, because the department has found that the facility or operation violates this chapter or a rule promulgated under this chapter, the department shall charge the operator a reinspection fee.

(b) The department shall establish the amount of the reinspection fee under par. (a) by rule. The reinspection fee amount may not exceed the department's reasonable

cost to reinspect that type of licensed or registered operation. The department may establish different reinspection fees for different types of facilities and operations.

(c) A reinspection fee under par. (a) is payable when the reinspection is completed, and is due upon written demand from the department. The department may issue a demand for payment when it issues an annual license or registration application form to the operator.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0463/2 PJ

TKK:|:....

d-note
RMP/vn
inserts

DOA:.....Miner, BB0142 - Animal health program changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

js

in 10/21/08

SA ✓
K ✓

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE ✓

Under current law, DATCP must pay indemnities to the owners of certain animals if DATCP orders the destruction of those animals for the purposes of disease control. The owners of fish destroyed for purposes of disease control may only receive indemnities if the fish are raised primarily to produce food for human consumption. This bill requires DATCP to pay indemnities to the owners of fish destroyed for purposes of disease control regardless of the purposes for which the fish are raised.

Under current law, DATCP charges a fee to persons seeking to be licensed by DATCP to operate an animal market or to operate as an animal dealer or animal trucker. The amount of the fees to be charged for these licenses are specified in the statutes, but DATCP is authorized to specify a different fee by rule. DATCP also charges a fee to persons registered to operate a fish farm or to keep farm-raised deer. The department is authorized to specify the amount of these registration fees by rule.

* This bill eliminates the statutory license fees for animal markets, animal dealers, and animal truckers and instead requires DATCP to specify the amount of these license fees by rule. The bill also authorizes DATCP to charge a reinspection fee if DATCP is required to conduct a reinspection of a fish farm, an animal market, an animal dealer operation, an animal trucker operation, or the premises at which farm-raised deer are kept because the department has found that the facility or operation violates state law or administrative rules.

premises;

Under current law, DATCP must inspect each fish farm when it is first registered with DATCP, and may inspect any fish farm at any other time. This bill eliminates this authority.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 95.31 (3) of the statutes is amended to read:

2 95.31 (3) In addition to the indemnities for specific animal diseases provided
3 under ss. 95.25, 95.26 and 95.27 or under special emergency programs and subject
4 to s. 95.36, the department shall pay indemnities on livestock condemned and
5 slaughtered or destroyed because of other diseases if the department determines
6 that the condemnation and slaughter or destruction is necessary to protect public
7 health or the livestock industry. The indemnity under this subsection shall be
8 two-thirds of the difference between net salvage value and appraised value, but may
9 not exceed \$1,500 for an animal, except as provided in sub. (3m). As used in this
10 subsection, "livestock" means animals of species raised primarily to produce food for
11 human consumption, including farm-raised deer, and fish raised on a fish farm for
12 any purpose.

History: 1977 c. 146; 1977 c. 449 s. 497; 1981 c. 20; 1989 a. 31; 1991 a. 269; 1995 a. 79, 450; 2001 a. 56; 2005 a. 25.

13 **SECTION 2.** 95.31 (4) of the statutes is amended to read:

14 95.31 (4) In the event of a major or serious outbreak of a contagious or infectious
15 disease that may affect public health or the health of animals and that requires
16 special control measures, the department may request the joint committee on
17 finance to release funds appropriated under s. 20.115 (2) (b) as needed to conduct
18 emergency control programs independently or in cooperation with federal or local
19 units of government and, ~~subject to s. 95.36,~~ to pay indemnities on animals of species

1 ~~raised primarily to produce food for human consumption, including farm-raised~~
2 ~~deer, condemned and slaughtered or destroyed under sub. (3) for eligible animals~~
3 ~~that the department condemns under the emergency control programs. For all~~
4 ~~indemnities paid under this subsection, the state shall pay two-thirds of the~~
5 ~~difference between the net salvage value and the appraised value of an animal,~~
6 ~~except that no payment may exceed \$1,500 for an animal.~~

7 History: 1977 c. 146; 1977 c. 449 s. 497; 1981 c. 20; 1989 a. 31; 1991 a. 269; 1995 a. 79, 450; 2001 a. 56; 2005 a. 25.

7 SECTION 3. 95.55 (2) of the statutes is amended to read:

8 95.55 (2) APPLICATION. A person shall register under this section using a form
9 provided by the department. The form shall be accompanied by the fee applicable
10 fees specified under sub. (3). Upon registration, the department shall issue the
11 person a registration certificate.

12 History: 1995 a. 79; 2001 a. 56; 2003 a. 179; 2005 a. 35, 359, 409; 2007 a. 97.

12 SECTION 4. 95.55 (3) (title) of the statutes is repealed and recreated to read:

13 95.55 (3) (title) REGISTRATION FEE; REINSPECTION FEE.

14 SECTION 5. 95.55 (3) of the statutes is renumbered 95.55 (3) (a).

15 SECTION 6. 95.55 (3) (b) of the statutes is created to read:

16 95.55 (3) (b) 1. If the department reinspects the premises where farm-raised
17 deer are kept because the department has found a violation of this chapter or rules
18 promulgated under this chapter, the department shall charge the person registered
19 under this section the reinspection fee specified under subd. 2.

20 2. The department shall specify the reinspection fee by rule. The reinspection
21 fee may not exceed the reasonable costs to reinspect the premises. The department
22 may specify different reinspection fees for different premises or operations.

23 3. A reinspection fee under this paragraph is payable when the reinspection is
24 completed, and is due upon written demand from the department. The department

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Handwritten note "stet:" with an arrow pointing to the text in line 18.

Handwritten note "STET: leave as typed" with an arrow pointing to the text in line 18.

Handwritten note "to be charged under subd. 10" with an arrow pointing to the text in line 20.

Handwritten circled numbers 20, 21, and 22 in the left margin.

1 may issue a demand for payment when it issues a registration renewal application
2 form to the person registered to keep farm-raised deer under this section.

3 SECTION 7. 95.60 (4) (a) of the statutes is repealed.

4 SECTION 8. 95.60 (5) of the statutes is amended to read:

5 95.60 (5) The department shall, by rule, specify the fees for permits,
6 certificates, registration and inspections under this section, including any
7 reinspection fees required under sub. (5m).

History: 1997 a. 27, 237; 1999 a. 32; 2001 a. 16, 56; 2003 a. 136; 2005 a. 25.

8 SECTION 9. 95.60 (5m) of the statutes is created to read:

9 95.60 (5m) (a) If the department reinspects a fish farm because the department
10 has found a violation of this chapter or rules promulgated under this chapter, the
11 department shall charge the fish farm operator the reinspection fee specified under
12 par. (b).

13 (b) The department shall specify the reinspection fee by rule. The reinspection
14 fee may not exceed the reasonable costs to reinspect the fish farm. The department
15 may specify different reinspection fees for different facilities or operations.

16 (c) A reinspection fee under this subsection is payable when the reinspection
17 is completed, and is due upon written demand from the department. The department
18 may issue a demand for payment when it issues a registration renewal application
19 form to the fish farm operator.

20 SECTION 10. 95.68 (4) of the statutes is repealed and recreated to read:

21 95.68 (4) LICENSE FEE; REINSPECTION FEE. (a) The department shall, by rule,
22 specify the fee for an animal market license issued under this section.

23 (b) 1. If the department reinspects an animal market because the department
24 has found a violation of this chapter or rules promulgated under this chapter, the

Handwritten notes in the left margin: "STET" and "FISH FARM" with arrows pointing to the text.

Handwritten notes in the left margin: "STET" and "ANIMAL MARKET" with arrows pointing to the text.

STET: leave as typed

to be charged under par (a)

fish farms

STET: leave as typed

1 department shall charge the animal market operator the reinspection fee specified
2 under subd. 2.

to be charged under subd. 10

3 2. The department shall specify the reinspection fee by rule. The reinspection
4 fee may not exceed the reasonable costs to reinspect the animal market. The
5 department may specify different reinspection fees for different facilities or
6 operations. *animal markets*

7 3. A reinspection fee under this paragraph is payable when the reinspection is
8 completed, and is due upon written demand from the department. The department
9 may issue a demand for payment when it issues a license renewal application form
10 to the animal market operator.

11 SECTION 11. 95.68 (8) of the statutes is amended to read:

12 95.68 (8) RULES. The department may promulgate rules to specify license fees
13 under sub. (4) or to regulate the operation of animal markets, including rules related
14 to market operator qualifications, market construction and maintenance,
15 construction and maintenance of animal transport vehicles, identification of animal
16 transport vehicles, disease sanitation, humane treatment of animals, identification
17 of animals, record keeping, reports to the department and compliance with
18 applicable financial security requirements under state or federal law.

History: 1993 a. 16; 1995 a. 79, 95; 2001 a. 56. ✓

19 SECTION 12. 95.69 (4) of the statutes is renumbered 95.69 (4) (a) and amended
20 to read:

21 95.69 (4) FEES LICENSE FEE; REINSPECTION FEE. (a) Unless the The department
22 specifies a different fee shall, by rule, specify the fee for an animal dealer license is
23 \$75 issued under this section.

No underscoring

History: 1993 a. 16; 1995 a. 95; 2001 a. 56. ✓

24 SECTION 13. 95.69 (4) (b) of the statutes is created to read:

SECTION #. 95.69 (4) (title) is repealed and recreated to read:
95.69 (4) (title)

STET:
leave as
typed

1 95.69 (4) (b) 1. If the department reinspects an animal dealer operation because
2 the department has found a violation of this chapter or rules promulgated under this
3 chapter, the department shall charge the animal dealer the reinspection fee specified
4 under subd. 2.

5 2. The department shall specify the reinspection fee by rule. The reinspection
6 fee may not exceed the reasonable costs to reinspect the animal dealer operation. The
7 department may specify different reinspection fees for different facilities or
8 operations. *Stays - do not delete*

9 3. A reinspection fee under this paragraph is payable when the reinspection is
10 completed, and is due upon written demand from the department. The department
11 may issue a demand for payment when it issues a license renewal application form
12 to the animal dealer.

13 SECTION 14. 95.69 (8) of the statutes is amended to read:

14 95.69 (8) RULES. The department may promulgate rules to specify license fees
15 under sub. (4) or to regulate animal dealers, including rules related to animal dealer
16 qualifications, construction and maintenance of animal transport vehicles,
17 identification of animal transport vehicles, disease sanitation, humane treatment of
18 animals, identification of animals, record keeping, reports to the department and
19 compliance with applicable financial security requirements under state or federal
20 law.

21 History: 1993 a. 16; 1995 a. 95; 2001 a. 56.

22 SECTION 15. 95.71 (5) of the statutes is amended to read:

23 95.71 (5) FEES LICENSE FEE; REGISTRATION FEE; REINSPECTION FEE. (a) Unless the
24 ~~The department specifies different fees shall, by rule, an applicant for an animal
trucker license shall pay a specify the fee in an amount equal to \$20 plus \$5 for each~~

[Handwritten scribbles and marks on the left margin]

to be charged under subd 1

animal dealer

1 ~~animal transport vehicle registered with the applicant's for an animal trucker~~
2 ~~license application under sub. (3) issued under this section.~~

3 (b) The department shall, by rule, specify the fee to be paid for each animal
4 transport vehicle registered under sub. (4). If during any license year an animal
5 trucker registers an animal transport vehicle that was not registered with the
6 animal trucker's annual license application under sub. (3), the animal trucker shall,
7 pay the fee required under this paragraph at the time of the additional registration,
8 pay a registration fee of \$5 for each animal transport vehicle registered.

History: 1993 a. 16; 2001 a. 56, 105.

9 **SECTION 16.** 95.71 (5) (c) of the statutes is created to read:

STET: leave as typed

Stat.
7-10

10 95.71 (5) (c) 1. If the department reinspects an animal trucker operation
11 because the department has found a violation of this chapter or rules promulgated
12 under this chapter, the department shall charge the animal trucker the reinspection
13 fee specified under subd. 2.

to be charged under subd. 10

14 2. The department shall specify the reinspection fee by rule. The reinspection
15 fee may not exceed the reasonable costs to reinspect the animal trucker operation.
16 The department may specify different reinspection fees for different facilities or
17 operations.

animal trucker

18 3. A reinspection fee under this paragraph is payable when the reinspection is
19 completed, and is due upon written demand from the department. The department
20 may issue a demand for payment when it issues a license renewal application form
21 to the animal trucker.

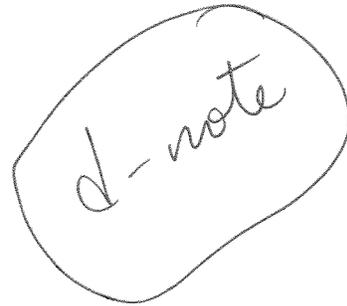
22 **SECTION 17.** 95.71 (8) of the statutes is amended to read:

23 95.71 (8) RULES. The department may promulgate rules to specify license fees
24 under sub. (5) or to regulate animal truckers, including rules related to animal

1 trucker qualifications, construction and maintenance of animal transport vehicles,
2 identification of animal transport vehicles, disease sanitation, humane treatment of
3 animals, identification of animals, record keeping, reports to the department and
4 compliance with applicable financial security requirements under state or federal
5 law.

6 **History:** 1993 a. 16; 2001 a. 56, 105.

(END)

A handwritten note consisting of the text "d-note" written in cursive, enclosed within a hand-drawn oval border.

1 **INSERT 3-16**

2 (no 9)

2 If the department has found a violation of this chapter or rules promulgated
3 under this chapter at a premises where farm-raised deer are kept and inspects the
4 premises to determine whether that violation has been corrected,

5 **INSERT 4-9**

6 (no 9)

6 If the department has found a violation of this chapter or rules promulgated
7 under this chapter at a fish farm and inspects the fish farm to determine whether
8 that violation has been corrected,

9 **INSERT 4-23**

10 (no 9)

10 If the department has found a violation of this chapter or rules promulgated
11 under this chapter at an animal market and inspects the animal market to determine
12 whether that violation has been corrected,

13 **INSERT 6-1**

14 (no 9)

14 If the department has found a violation of this chapter or rules promulgated
15 under this chapter at an animal dealer operation and inspects the animal dealer
16 operation to determine whether that violation has been corrected,

17 **INSERT 7-10**

18 (no 9)

18 If the department has found a violation of this chapter or rules promulgated
19 under this chapter at an animal trucker operation and inspects the animal trucker
20 operation to determine whether that violation has been corrected,

21 **INSERT D-NOTE X**

22 Finally, note that in s. 95.31 (3), stats., I retained the word, "including," in the
23 definition of livestock. Under current law, indemnities are paid for condemned and

1 destroyed farm-raised deer only to the extent that the deer are raised primarily to
2 produce food for humans. Elimination of the word, "including," would require
3 indemnities to be paid for all farm-raised deer regardless of the purpose for which
4 the deer are raised. Was that DATCP's intent?

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0463/?dn

TKK: /:....

gjs

Twent D-Note

Andrew Miner:

The drafting instructions proposed to repeal s. 95.60 (4) (a), stats., in order to eliminate DATCP's obligation to inspect every fish farm. However, a repeal of this paragraph also eliminates DATCP's authority to inspect fish farms "at any other time?". Was that DATCP's intent?

20 Fish farm inspections

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

LPS: please
convert
this to proper
d-note
components

1 **INSERT D-NOTE**

2 1. Indemnities. Was it DATCP's intent that the changes in s. 95.31 (3), stats.,
3 be duplicated in s. 95.31 (4), stats.? That is, are indemnities to be paid for fish
4 condemned and slaughtered or destroyed under s. 95.31 (4), stats., regardless of the
5 purpose for which the fish are raised? If so, I think the use of the phrase "eligible
6 animals" in place of "animals of species raised primarily to produce food for human
7 consumption, including farm-raised deer" does not accomplish that intent and
8 would recommend that the phrase "livestock as defined under sub. (3)" be used in
9 place of "eligible animals." ~~In fact,~~ I think the use of the phrase "eligible animals"
10 causes confusion as to what animals are eligible for indemnities under sub. (4) and
11 why the cross-reference to sub. (3) is included under sub. (4); for, sub. (3) refers to
12 "livestock," not animals. Please advise.

13 Also, the drafting request directed me to strike language in sub. (4) specifying
14 that indemnities be paid for condemned animals slaughtered and destroyed under
15 the emergency control programs. By this change, did DATCP intend that an
16 indemnity be paid for eligible animals condemned under the emergency control
17 programs regardless of whether those animals ~~are~~ slaughtered or destroyed? If not,
18 I recommend that the reference to condemned animals that are slaughtered or
19 destroyed be retained.

INSERT D-NOTE X

are

If so, sub^s (3) and (4) will be mutually inconsistent and
will need to be harmonized.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0463/P1dn

TKK:cjs:rs

October 24, 2008

Andrew Miner:

1. Indemnities. Was it DATCP's intent that the changes in s. 95.31 (3), stats., be duplicated in s. 95.31 (4), stats.? That is, are indemnities to be paid for fish condemned and slaughtered or destroyed under s. 95.31 (4), stats., regardless of the purpose for which the fish are raised? If so, I think the use of the phrase "eligible animals" in place of "animals of species raised primarily to produce food for human consumption, including farm-raised deer" does not accomplish that intent and would recommend that the phrase "livestock as defined under sub. (3)" be used in place of "eligible animals." I think the use of the phrase "eligible animals" causes confusion as to what animals are eligible for indemnities under sub. (4) and why the cross-reference to sub. (3) is included under sub. (4); for, sub. (3) refers to "livestock," not animals. Please advise.

Also, the drafting request directed me to strike language in sub. (4) specifying that indemnities be paid for condemned animals slaughtered and destroyed under the emergency control programs. By this change, did DATCP intend that an indemnity be paid for eligible animals condemned under the emergency control programs regardless of whether those animals are slaughtered or destroyed? If not, I recommend that the reference to condemned animals that are slaughtered or destroyed be retained. If so, subs. (3) and (4) will be mutually inconsistent and will need to be harmonized.

2. Fish farm inspections. The drafting instructions proposed to repeal s. 95.60 (4) (a), stats., in order to eliminate DATCP's obligation to inspect every fish farm. However, a repeal of this paragraph also eliminates DATCP's authority to inspect fish farms "at any other time." Was that DATCP's intent?

Finally, note that in s. 95.31 (3), stats., I retained the word, "including," in the definition of livestock. Under current law, indemnities are paid for condemned and destroyed farm-raised deer only to the extent that the deer are raised primarily to produce food for humans. Elimination of the word, "including," would require indemnities to be paid for all farm-raised deer regardless of the purpose for which the deer are raised. Was that DATCP's intent?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Duerst, Christina

From: Hanaman, Cathlene
Sent: Friday, October 24, 2008 3:33 PM
To: Christina Duerst; Lori Northrop; Mike Barman; Sarah Basford

I fixed an error, per Tracy's request, on a DOA drafter's note. In -0463, could you replace the dnote with the one in the system?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0463/P1dn

TKK:cjs:rs

October 24, 2008

Andrew Miner:

1. Indemnities. Was it DATCP's intent that the changes in s. 95.31 (3), stats., be duplicated in s. 95.31 (4), stats.? That is, are indemnities to be paid for fish condemned and slaughtered or destroyed under s. 95.31 (4), stats., regardless of the purpose for which the fish are raised? If so, I think the use of the phrase "eligible animals" in place of "animals of species raised primarily to produce food for human consumption, including farm-raised deer" does not accomplish that intent and would recommend that the phrase "livestock as defined under sub. (3)" be used in place of "eligible animals." I think the use of the phrase "eligible animals" causes confusion as to what animals are eligible for indemnities under sub. (4) and why the cross-reference to sub. (3) is included under sub. (4); for, sub. (3) refers to "livestock," not animals. Please advise.

Also, the drafting request directed me to strike language in sub. (4) specifying that indemnities be paid for condemned animals slaughtered and destroyed under the emergency control programs. By this change, did DATCP intend that an indemnity be paid for eligible animals condemned under the emergency control programs regardless of whether those animals are slaughtered or destroyed? If not, I recommend that the reference to condemned animals that are slaughtered or destroyed be retained. If so, subs. (3) and (4) will be mutually inconsistent and will need to be harmonized.

Finally, note that in s. 95.31 (3), stats., I retained the word, "including," in the definition of livestock. Under current law, indemnities are paid for condemned and destroyed farm-raised deer only to the extent that the deer are raised primarily to produce food for humans. Elimination of the word, "including," would require indemnities to be paid for all farm-raised deer regardless of the purpose for which the deer are raised. Was that DATCP's intent?

2. Fish farm inspections. The drafting instructions proposed to repeal s. 95.60 (4) (a), stats., in order to eliminate DATCP's obligation to inspect every fish farm. However, a repeal of this paragraph also eliminates DATCP's authority to inspect fish farms "at any other time." Was that DATCP's intent?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Monday, November 10, 2008 2:59 PM
To: Kuczenski, Tracy
Subject: draft 0463 (animal health)

Hi Tracy,

Please make the following changes to this draft:

1. Remove completely the provision requiring DATCP to provide indemnities for destroyed fish that are consumed for any purpose (i.e., return to current law).
2. DATCP's intent was just to remove the obligatory initial fish farm inspection. DATCP should still be authorized to inspect a fish farm at any time.

Please let me know if you have questions. Thanks - Andrew

Andrew Miner
Agriculture, Environment and Justice
Wisconsin State Budget Office
(608) 266-1103



State of Wisconsin
2009 - 2010 LEGISLATURE

P2
LRB-0463/P1
TKK:cjs:cs
RANIR
insert
stays

DOA:.....Miner, BB0142 - Animal health program changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 11/12/08

SAV

Do NOT Gen

insert

1 AN ACT...; relating to: the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

Under current law, DATCP must pay indemnities to the owners of certain animals if DATCP orders the destruction of those animals for the purposes of disease control. The owners of fish destroyed for purposes of disease control may only receive indemnities if the fish are raised primarily to produce food for human consumption. This bill requires DATCP to pay indemnities to the owners of fish destroyed for purposes of disease control regardless of the purposes for which the fish are raised.

Under current law, DATCP charges a fee to persons seeking to be licensed by DATCP to operate an animal market or to operate as an animal dealer or animal trucker. The amount of the fees to be charged for these licenses are specified in the statutes, but DATCP is authorized to specify a different fee by rule. DATCP also charges a fee to persons registered to operate a fish farm or to keep farm-raised deer. The department is authorized to specify the amount of these registration fees by rule.

This bill eliminates the statutory license fees for animal markets, animal dealers, and animal truckers and instead requires DATCP to specify the amount of these license fees by rule. The bill also authorizes DATCP to charge a reinspection fee if DATCP conducts a reinspection of a fish farm, an animal market, an animal dealer operation, an animal trucker operation, or the premises at which farm-raised deer are kept because the department has found that the premises, facility, or operation violates state law or administrative rules.

Under current law, DATCP must inspect each fish farm when it is first registered with DATCP, and may inspect any fish farm at any other time. This bill eliminates this authority.

the requirement that DATCP inspect each fish farm when it is first registered with DATCP

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 95.31 (3) of the statutes is amended to read:

2 95.31 (3) In addition to the indemnities for specific animal diseases provided
3 under ss. 95.25, 95.26 and 95.27 or under special emergency programs and subject
4 to s. 95.36, the department shall pay indemnities on livestock condemned and
5 slaughtered or destroyed because of other diseases if the department determines
6 that the condemnation and slaughter or destruction is necessary to protect public
7 health or the livestock industry. The indemnity under this subsection shall be
8 two-thirds of the difference between net salvage value and appraised value, but may
9 not exceed \$1,500 for an animal, except as provided in sub. (3m). As used in this
10 subsection, "livestock" means animals of species raised primarily to produce food for
11 human consumption, including farm-raised deer, and fish raised on a fish farm for
12 any purpose.

13 **SECTION 2.** 95.31 (4) of the statutes is amended to read:

14 95.31 (4) In the event of a major or serious outbreak of a contagious or infectious
15 disease that may affect public health or the health of animals and that requires
16 special control measures, the department may request the joint committee on
17 finance to release funds appropriated under s. 20.115 (2) (b) as needed to conduct
18 emergency control programs independently or in cooperation with federal or local
19 units of government and, ~~subject to s. 95.36,~~ to pay indemnities on animals of species

1 ~~raised primarily to produce food for human consumption, including farm-raised~~
2 ~~deer, condemned and slaughtered or destroyed under sub. (3) for eligible animals~~
3 ~~that the department condemns under the emergency control programs. For all~~
4 ~~indemnities paid under this subsection, the state shall pay two-thirds of the~~
5 ~~difference between the net salvage value and the appraised value of an animal,~~
6 ~~except that no payment may exceed \$1,500 for an animal.~~

7 **SECTION 3.** 95.55 (2) of the statutes is amended to read:

8 95.55 (2) APPLICATION. A person shall register under this section using a form
9 provided by the department. The form shall be accompanied by the fee applicable
10 fees specified under sub. (3). Upon registration, the department shall issue the
11 person a registration certificate.

12 **SECTION 4.** 95.55 (3) (title) of the statutes is repealed and recreated to read:

13 95.55 (3) (title) REGISTRATION FEE; REINSPECTION FEE.

14 **SECTION 5.** 95.55 (3) of the statutes is renumbered 95.55 (3) (a).

15 **SECTION 6.** 95.55 (3) (b) of the statutes is created to read:

16 95.55 (3) (b) 1. If the department reinspects the premises where farm-raised
17 deer are kept because the department has found a violation of this chapter or rules
18 promulgated under this chapter, the department shall charge the person registered
19 under this section the reinspection fee specified under subd. 2.

20 2. The department shall specify the reinspection fee to be charged under subd.

21 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
22 premises. The department may specify different reinspection fees for different
23 premises.

24 3. A reinspection fee under this paragraph is payable when the reinspection is
25 completed, and is due upon written demand from the department. The department

INJECT 4-3

1 may issue a demand for payment when it issues a registration renewal application
2 form to the person registered to keep farm-raised deer under this section.

3 **SECTION 7.** 95.60 (4) (a) of the statutes is repealed.

4 **SECTION 8.** 95.60 (5) of the statutes is amended to read:

5 95.60 (5) The department shall, by rule, specify the fees for permits,
6 certificates, registration and inspections under this section, including any
7 reinspection fees required under sub. (5m).

8 **SECTION 9.** 95.60 (5m) of the statutes is created to read:

9 95.60 (5m) (a) If the department reinspects a fish farm because the department
10 has found a violation of this chapter or rules promulgated under this chapter, the
11 department shall charge the fish farm operator the reinspection fee specified under
12 par. (b).

13 (b) The department shall specify the reinspection fee to be charged under par.
14 (a) by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
15 fish farm. The department may specify different reinspection fees for different fish
16 farms.

17 (c) A reinspection fee under this subsection is payable when the reinspection
18 is completed, and is due upon written demand from the department. The department
19 may issue a demand for payment when it issues a registration renewal application
20 form to the fish farm operator.

21 **SECTION 10.** 95.68 (4) of the statutes is repealed and recreated to read:

22 95.68 (4) LICENSE FEE; REINSPECTION FEE. (a) The department shall, by rule,
23 specify the fee for an animal market license issued under this section.

24 (b) 1. If the department reinspects an animal market because the department
25 has found a violation of this chapter or rules promulgated under this chapter, the

1 department shall charge the animal market operator the reinspection fee specified
2 under subd. 2.

3 2. The department shall specify the reinspection fee to be charged under subd.
4 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
5 animal market. The department may specify different reinspection fees for different
6 animal markets.

7 3. A reinspection fee under this paragraph is payable when the reinspection is
8 completed, and is due upon written demand from the department. The department
9 may issue a demand for payment when it issues a license renewal application form
10 to the animal market operator.

11 **SECTION 11.** 95.68 (8) of the statutes is amended to read:

12 95.68 (8) RULES. The department may promulgate rules to specify license fees
13 ~~under sub. (4) or~~ to regulate the operation of animal markets, including rules related
14 to market operator qualifications, market construction and maintenance,
15 construction and maintenance of animal transport vehicles, identification of animal
16 transport vehicles, disease sanitation, humane treatment of animals, identification
17 of animals, record keeping, reports to the department and compliance with
18 applicable financial security requirements under state or federal law.

19 **SECTION 12.** 95.69 (4) (title) of the statutes is repealed and recreated to read:

20 95.69 (4) (title) LICENSE FEE; REINSPECTION FEE.

21 **SECTION 13.** 95.69 (4) of the statutes is renumbered 95.69 (4) (a) and amended
22 to read:

23 95.69 (4) (a) ~~Unless the~~ The department specifies a different fee shall, by rule,
24 specify the fee for an animal dealer license is \$75 issued under this section.

25 **SECTION 14.** 95.69 (4) (b) of the statutes is created to read:

1 95.69 (4) (b) 1. If the department reinspects an animal dealer operation
2 because the department has found a violation of this chapter or rules promulgated
3 under this chapter, the department shall charge the animal dealer the reinspection
4 fee specified under subd. 2.

5 2. The department shall specify the reinspection fee to be charged under subd.
6 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
7 animal dealer operation. The department may specify different reinspection fees for
8 different animal dealer operations.

9 3. A reinspection fee under this paragraph is payable when the reinspection is
10 completed, and is due upon written demand from the department. The department
11 may issue a demand for payment when it issues a license renewal application form
12 to the animal dealer.

13 **SECTION 15.** 95.69 (8) of the statutes is amended to read:

14 95.69 (8) **RULES.** The department may promulgate rules to specify license fees
15 ~~under sub. (4) or~~ to regulate animal dealers, including rules related to animal dealer
16 qualifications, construction and maintenance of animal transport vehicles,
17 identification of animal transport vehicles, disease sanitation, humane treatment of
18 animals, identification of animals, record keeping, reports to the department and
19 compliance with applicable financial security requirements under state or federal
20 law.

21 **SECTION 16.** 95.71 (5) of the statutes is amended to read:

22 95.71 (5) ~~FEES~~ LICENSE FEE; REGISTRATION FEE; REINSPECTION FEE. (a) ~~Unless the~~
23 ~~The~~ department specifies different fees shall, by rule, ~~an applicant for an animal~~
24 ~~trucker license shall pay a~~ specify the fee in an amount equal to \$20 plus \$5 for each

1 ~~animal transport vehicle registered with the applicant's for an animal trucker~~
2 ~~license application under sub. (3) issued under this section.~~

3 (b) The department shall, by rule, specify the fee to be paid for each animal
4 transport vehicle registered under sub. (4). If during any license year an animal
5 trucker registers an animal transport vehicle that was not registered with the
6 animal trucker's annual license application under sub. (3), the animal trucker shall,
7 pay the fee required under this paragraph at the time of ~~the additional~~ registration,
8 ~~pay a registration fee of \$5 for each animal transport vehicle registered.~~

9 **SECTION 17.** 95.71 (5) (c) of the statutes is created to read:

10 95.71 (5) (c) 1. If the department reinspects an animal trucker operation
11 because the department has found a violation of this chapter or rules promulgated
12 under this chapter, the department shall charge the animal trucker the reinspection
13 fee specified under subd. 2.

14 2. The department shall specify the reinspection fee to be charged under subd.
15 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
16 animal trucker operation. The department may specify different reinspection fees
17 for different animal trucker operations.

18 3. A reinspection fee under this paragraph is payable when the reinspection is
19 completed, and is due upon written demand from the department. The department
20 may issue a demand for payment when it issues a license renewal application form
21 to the animal trucker.

22 **SECTION 18.** 95.71 (8) of the statutes is amended to read:

23 95.71 (8) RULES. The department may promulgate rules ~~to specify license fees~~
24 ~~under sub. (5) or~~ to regulate animal truckers, including rules related to animal
25 trucker qualifications, construction and maintenance of animal transport vehicles,

1 identification of animal transport vehicles, disease sanitation, humane treatment of
2 animals, identification of animals, record keeping, reports to the department and
3 compliance with applicable financial security requirements under state or federal
4 law.

5 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0463/P1ins
TKK:cjs:rs

1 **INSERT 4-3**

2 **SECTION 1.** 95.60 (4) (a) of the statutes is amended to read: X

3 95.60 (4) (a) The department ~~shall~~ may inspect a fish farm upon initial
4 registration under sub. (3m). ~~The department may inspect a fish farm and~~ and at any
5 other time.

History: 1997 a. 27, 237; 1999 a. 32; 2001 a. 16, 56; 2003 a. 136; 2005 a. 25.



DOA:.....Miner, BB0142 - Animal health program changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

AGRICULTURE

Under current law, DATCP charges a fee to persons seeking to be licensed by DATCP to operate an animal market or to operate as an animal dealer or animal trucker. The amount of the fees to be charged for these licenses are specified in the statutes, but DATCP is authorized to specify a different fee by rule. DATCP also charges a fee to persons registered to operate a fish farm or to keep farm-raised deer. The department is authorized to specify the amount of these registration fees by rule.

This bill eliminates the statutory license fees for animal markets, animal dealers, and animal truckers and instead requires DATCP to specify the amount of these license fees by rule. The bill also authorizes DATCP to charge a reinspection fee if DATCP conducts a reinspection of a fish farm, an animal market, an animal dealer operation, an animal trucker operation, or the premises at which farm-raised deer are kept because the department has found that the premises, facility, or operation violates state law or administrative rules.

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5 person a registration certificate.

6 **SECTION 2.** 95.55 (3) (title) of the statutes is repealed and recreated to read:

7 95.55 (3) (title) REGISTRATION FEE; REINSPECTION FEE.

8 **SECTION 3.** 95.55 (3) of the statutes is renumbered 95.55 (3) (a).

9 **SECTION 4.** 95.55 (3) (b) of the statutes is created to read:

10 95.55 (3) (b) 1. If the department reinspects the premises where farm-raised
11 deer are kept because the department has found a violation of this chapter or rules
12 promulgated under this chapter, the department shall charge the person registered
13 under this section the reinspection fee specified under subd. 2.

14 2. The department shall specify the reinspection fee to be charged under subd.
15 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
16 premises. The department may specify different reinspection fees for different
17 premises.

18 3. A reinspection fee under this paragraph is payable when the reinspection is
19 completed, and is due upon written demand from the department. The department
20 may issue a demand for payment when it issues a registration renewal application
21 form to the person registered to keep farm-raised deer under this section.

1 **SECTION 5.** 95.60 (4) (a) of the statutes is amended to read:

2 95.60 (4) (a) The department shall may inspect a fish farm upon initial
3 registration under sub. (3m). ~~The department may inspect a fish farm and~~ and at any
4 other time.

5 **SECTION 6.** 95.60 (5) of the statutes is amended to read:

6 95.60 (5) The department shall, by rule, specify the fees for permits,
7 certificates, registration and inspections under this section, including any
8 reinspection fees required under sub. (5m).

9 **SECTION 7.** 95.60 (5m) of the statutes is created to read:

10 95.60 (5m) (a) If the department reinspects a fish farm because the department
11 has found a violation of this chapter or rules promulgated under this chapter, the
12 department shall charge the fish farm operator the reinspection fee specified under
13 par. (b).

14 (b) The department shall specify the reinspection fee to be charged under par.
15 (a) by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
16 fish farm. The department may specify different reinspection fees for different fish
17 farms.

18 (c) A reinspection fee under this subsection is payable when the reinspection
19 is completed, and is due upon written demand from the department. The department
20 may issue a demand for payment when it issues a registration renewal application
21 form to the fish farm operator.

22 **SECTION 8.** 95.68 (4) of the statutes is repealed and recreated to read:

23 95.68 (4) **LICENSE FEE; REINSPECTION FEE.** (a) The department shall, by rule,
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17 construction and maintenance of animal transport vehicles, identification of animal
18 transport vehicles, disease sanitation, humane treatment of animals, identification
19 of animals, record keeping, reports to the department and compliance with
20 applicable financial security requirements under state or federal law.

21 **SECTION 10.** 95.69 (4) (title) of the statutes is repealed and recreated to read:

22 **95.69 (4) (title) LICENSE FEE; REINSPECTION FEE.**

23 **SECTION 11.** 95.69 (4) of the statutes is renumbered 95.69 (4) (a) and amended
24 to read:

1 95.69 (4) (a) ~~Unless the~~ The department specifies a different fee shall, by rule,
2 specify the fee for an animal dealer license is \$75 issued under this section.

3 **SECTION 12.** 95.69 (4) (b) of the statutes is created to read:

4 95.69 (4) (b) 1. If the department reinspects an animal dealer operation
5 because the department has found a violation of this chapter or rules promulgated
6 under this chapter, the department shall charge the animal dealer the reinspection
7 fee specified under subd. 2.

8 2. The department shall specify the reinspection fee to be charged under subd.
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22 compliance with applicable financial security requirements under state or federal
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6 (b) The department shall, by rule, specify the fee to be paid for each animal
7 transport vehicle registered under sub. (4). If during any license year an animal
8 trucker registers an animal transport vehicle that was not registered with the
9 animal trucker's annual license application under sub. (3), the animal trucker shall,
10 pay the fee required under this paragraph at the time of the additional registration,
11 ~~pay a registration fee of \$5 for each animal transport vehicle registered.~~

12 **SECTION 15.** 95.71 (5) (c) of the statutes is created to read:

13 95.71 (5) (c) 1. If the department reinspects an animal trucker operation
14 because the department has found a violation of this chapter or rules promulgated
15 under this chapter, the department shall charge the animal trucker the reinspection
16 fee specified under subd. 2.

17 2. The department shall specify the reinspection fee to be charged under subd.
18 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the
19 animal trucker operation. The department may specify different reinspection fees
20 for different animal trucker operations.

21 3. A reinspection fee under this paragraph is payable when the reinspection is
22 completed, and is due upon written demand from the department. The department
23 may issue a demand for payment when it issues a license renewal application form
24 to the animal trucker.

25 **SECTION 16.** 95.71 (8) of the statutes is amended to read:

