



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

DATE: March 27, 2008

TO: The Honorable Fred Risser
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FROM: Rodney J. Nilsestuen, Secretary
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Animal Health Fees; Final Draft Rule

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) is transmitting this rule for legislative committee review, as provided in s. 227.19(2) and (3), Stats. DATCP will publish notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

Delayed Fee Increase

This rule increases current animal health fees to address a serious funding shortfall in Wisconsin’s animal health program (fee increases are shown in Appendix A). This rule delays most of the fee increases until 2009, except that fee increases for veterinary inspection forms, fish import permits, and fish farm registrations will take effect in 2008. DATCP was able to delay most fee increases because the biennial budget act (2007 Wis. Act 20) provided temporary funding assistance of \$125,000 in each year of the 2007-09 biennium (one-time transfers from the Agriculture Chemical Cleanup Program).

This rule affects a number of animal health fees including license fees, voluntary herd certification fees, fees for veterinary certification forms, and fees for voluntary certification of animal health professionals. Some of the fee increases may affect several sectors of the livestock industry, while others are limited to specific livestock sectors. DATCP has not raised animal health fees since 1999.

Agriculture generates \$51.5 billion for Wisconsin

Background

Animal Health Program

DATCP administers Wisconsin's animal health and disease control program. DATCP does the following things, among others:

- Works to prevent and control serious diseases such as avian influenza, foot-and-mouth disease, chronic wasting disease, tuberculosis, "mad cow" disease, Johne's disease, brucellosis, rabies, pseudorabies and others. Many of these diseases affect humans and wild animals, as well as domestic animals.
- Regulates Wisconsin's multi-billion dollar livestock and poultry industry to protect it from devastating diseases.
- Responds to animal disease emergencies and bio-security threats.
- Licenses animal markets, animal dealers and animal truckers, and registers livestock premises.
- Licenses farm-raised deer herds and fish farms. The division also works with the Department of Natural Resources (DNR) to control diseases that may affect wild and domestic animals.
- Monitors for serious animal diseases, investigates disease outbreaks, and implements control measures such as quarantine and condemnation orders.
- Regulates the import and movement of animals to prevent the spread of disease.
- Facilitates sales of disease-free Wisconsin livestock and poultry.
- Promotes humane treatment of animals.
- Works to prevent fraud, including fraudulent sales of diseased animals.

Why This Rule Is Needed

Animal Health program operations are funded by a combination of general state tax dollars (79%), animal health fee revenues (19%) and federal funds (2%). This does *not* include federal funds that are passed through to program beneficiaries in the form of grants or other assistance.

Recent state budgets have done the following:

- Reduced annual GPR funding (general tax dollars) for animal health by nearly \$300,000.
- Lapsed approximately \$130,000 in animal health fee revenue (one-time lapse) to the state general fund.
- Assigned more staff to be paid from animal health fee revenues.

Program costs have gone up this year, as DATCP has filled critical animal health positions that had been held vacant. DATCP has only about 37 authorized permanent positions (field and office positions) for its *entire* animal health and disease control program, so it is important that key positions be filled.

As a result of these combined factors, the positive cash balance in the animal health fee revenue account is declining rapidly. DATCP collects about \$300,000 in animal health fees each year, and projects fee revenue expenditures approaching \$600,000 each year. Even with the temporary funding assistance of \$125,000 in each year of the 2007-09 biennium DATCP projects a negative cash balance of \$85,000 in the animal health fee revenue account beginning in FY 2008, \$241,000 in FY 2009, \$545,00 in FY 2010 and \$877,000 in FY 2011.

What This Rule Will Do

This rule, combined with the temporary funding assistance in 2007 Wis. Act 20 (see above), will remedy this funding deficit and maintain critical disease control programs at current levels. This rule will increase animal health fee revenues by approximately \$375,150 per year when it is fully implemented beginning in FY 2009-10. DATCP projects that this fee increase will stabilize animal health program revenue funding through 2012, without further fee increases.

Without this fee increase, DATCP will need to reduce animal health staffing at a time when bio-security and disease threats have grown. DATCP has only about 37 permanent staff for *all* of its animal health and disease control programs (does not count temporary, federally-funded positions). Staff reductions will increase risks to Wisconsin's major livestock industries, which rely on effective animal health and disease control programs. Staff reductions will also increase disease risks to humans and wildlife.

Other Rule Changes

This rule also eliminates current fish farm registration fee exemptions for research institutions and government agencies. Those entities will now have to pay the same registration fees as other fish farm operators. This rule retains the current fee exemption for primary and secondary schools.

Public Hearings

DATCP held 3 public hearings on this rule. Hearings were held in Appleton, July 12, 2007, Madison, July 16, 2007 and Eau Claire, July 17, 2007. A total of 18 people attended the hearings. Twelve people testified, and six registered but did not testify. Eight people submitted written comments. All of the oral and written testimony opposed the fee increases. Persons testified that fees were too high, and that their industry was subsidizing other major livestock sectors that do not pay animal health fees. A summary of hearing comments is attached.

Changes from Hearing Draft

DATCP did not change the fees proposed in the hearing draft, but did delay most of the fee increases until 2009 (see above). DATCP also made minor technical changes to the final draft rule, to address comments made by the Legislative Council Rules Clearinghouse.

Response to Rules Clearinghouse Comments

The Legislative Council Rules Clearinghouse made minor editorial comments on this rule. DATCP modified the final draft rule to address the Rules Clearinghouse comments. DATCP did not change the format of the plain language analysis, but believes that the analysis includes all of the substantive material required by statute. DATCP will modify the plain language analysis format in future rules.

Fiscal Impact

This rule will increase animal health fee revenues by approximately \$149,000 in FY 2008-09. When it is fully implemented beginning in FY 2009-10 it will increase annual fee revenues by approximately \$375,150. DATCP projects that this fee increase will stabilize animal health program staffing and funding through 2012, without further fee increases. This rule will not have any impact on local units of government. A complete fiscal estimate is attached.

Business Impact

This rule will benefit the Wisconsin livestock industry, by maintaining minimally adequate resources to help prevent and control devastating animal diseases that have the potential to destroy large segments of the industry. Effective disease control will help safeguard the industry, minimize potentially huge disease-related losses, and prevent catastrophic losses to individual livestock operators.

This rule will increase fee costs for animal markets, animal dealers, animal truckers, poultry and livestock farmers, deer farmers, fish farmers and veterinarians, many of which are “small businesses.” Some of the affected businesses may pass on the increased costs to their clients or customers.

The proposed fee increases will increase industry costs by a combined statewide total of approximately \$375,150 per year for all affected industries, once the rule is fully implemented. The projected impact by industry sector is shown in *Appendix B*. Fee increases for individual businesses are generally modest, and depend on business size and type. Smaller businesses generally pay lower fees than large businesses. Fees are based, in part, on animal health costs related to each affected industry.

In recent years, DATCP has incurred large costs related to the farm-raised deer and aquaculture industries. DATCP has absorbed most of those costs, often at the expense of other industry sectors and programs. Under this rule, the farm-raised deer and aquaculture industries would pay a more representative share of program costs.

A complete Business Impact Analysis is attached.

Federal Regulation

DATCP administers animal disease control programs in cooperation with the United States Department of Agriculture, Animal and Plant Health Inspection Service (“the federal bureau”). Federal grants pay for about 2% of Wisconsin’s animal health program operations. This does *not* include federal funds that are passed through to program beneficiaries in the form of grants or other assistance.

The federal bureau has well-established control programs for historically important diseases such as tuberculosis and brucellosis. The federal bureau has less well-developed programs for new or localized diseases, or emerging animal-based industries. In those areas, states often play a leadership role. For example, Wisconsin is a recognized national leader in the regulation of farm-raised deer (chronic wasting disease) and aquaculture.

States have independent authority to regulate animal health and movement, including imports from other states. However, states strive for reasonable consistency, based on standards spelled out in federal regulations. States typically incorporate federal standards where they exist, and play a key role in implementing federal standards.

The federal bureau does not license animal businesses, or regulate state fees. This fee rule does not duplicate or conflict with any federal fees or standards.

Surrounding State Programs

Surrounding state animal health programs are broadly comparable to those in Wisconsin, but differ in a number of ways. State programs reflect differences in animal populations, animal-based industries, and disease threats. Programs for historically important diseases, such as tuberculosis and brucellosis, tend to be fairly similar between states and are based on well-established federal standards. Programs for newer diseases or newer forms of agriculture, such as farm-raised deer and aquaculture, tend to be more variable.

Animal health fees fund about 19% of Wisconsin’s animal health program operations. In the surrounding states, by contrast, animal health program operations are funded almost entirely by state general fund appropriations. Some states charge almost no license fees. Other states charge fees but deposit them to the state general fund (so they do not have a direct impact on program appropriations). For a more detailed description of other state programs and fees, see the “plain language analysis” that accompanies this rule.

Appendix A

Proposed Fee Changes

Implementation: FY 2008-09

Fee For:	Current Fee:	Proposed Fee:
Certificate of Veterinary Inspection (blank form used by private veterinarians)	\$3 per form (interstate or intrastate)	\$5.60 per form (interstate) \$0.60 per form (intrastate)
Fish Farm (Type 1); Annual Registration	\$25 annual fee covers any number of Type 1 fish farms)	\$37.50 annual fee covers one Type 1 fish farm; \$50 annual fee covers any number of Type 1 fish farms
Fish Farm (Type 2); Annual Registration	\$50 annual fee covers any number of Type 2 fish farms.	\$125 annual fee covers 1-5 Type 2 fish farms; \$150 annual fee covers 6-10 Type 2 fish farms; \$200 annual fee covers 11-20 Type 2 fish farms; \$300 annual fee covers 21 or more Type 2 fish farms.
Fish Import Permit (may cover multiple import shipments for up to one year)	\$50	\$90

Implementation: FY 2009-10

Fee For:	Current Fee:	Proposed Fee:
Cattle; Brucellosis-Free Herd Certification (Voluntary certification facilitates animal sale and movement)	No fee.	\$50 annual certification
Cattle and Other Bovines; TB-Free Herd Certification (Voluntary certification facilitates sale and movement)	No fee	\$50 annual certification

Appendix A (continued)

Johne's Disease Veterinarian; Certification (Voluntary 3-year certification)	No fee	\$50 per 3-year certification
Cattle and Other Bovines: Approved Import Feedlot Permit (Voluntary permit facilitates certain imports)	\$75 annual permit	\$140 annual permit
Swine; Qualified Pseudorabies Negative Herd, Qualified Pseudo-Rabies Negative Grow-out Herd, or Feeder Swine Pseudorabies Monitored Herd (Voluntary certification facilitates sale and movement)	No fee	\$50 annual certification
Swine; Validated Brucellosis-Free Herd Certification (Voluntary certification facilitates swine sale and movement)	No fee	\$50 annual certification
Equine Imports; Quarantine Station Permit (station may receive certain horse imports)	No fee	\$100 annual permit and \$100 permit per quarantined animal
Poultry Tester; Training	No fee.	\$25 training fee.
National Poultry Improvement Plan; Annual Flock Enrollment	Annual fee ranges from \$40 to \$200 based on flock type and size.	Annual fee ranges from \$80 to \$400 based on flock type and size.
Farm-raised Deer; Annual Herd Registration	Annual fee based on herd size: \$50 if ≤ 15 deer \$100 if > 15 deer \$150 minimum one-time inspection fee for 2 nd herd at same site (not required for renewal). \$100 surcharge if found operating without registration	Annual fee based on herd herd size: \$162.50 if ≤ 15 deer \$325 if > 15 deer \$200 minimum one-time inspection fee for 2 nd herd at same site (not required for renewal) \$250 surcharge if found operating without registration

Appendix A (continued)

Farm-raised Deer; Hunting Preserve Certificate	\$150 for 10-year certificate	\$500 for 10-year certificate
Farm-raised Deer; TB-Free Herd Certification (Voluntary certification facilitates deer sales and movement)	No fee.	\$50 per 3-year certification
Farm-raised Deer; Brucellosis-Free Herd Certification (Voluntary certification facilitates deer sales and movement)	No fee.	\$50 per 2-year certification
Sheep; Brucella-Ovis Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 (certification good for 14 months)
Goats; Brucellosis-Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 (certification good for 14 months)
Goats; Tuberculosis Free Flock Certification (Voluntary certification facilitates animal sale and movement)	No fee	\$50 annual certification
Animal Market; Annual License	\$225 annual fee for Class A license \$115 annual fee for Class B license \$150 annual fee for Class C license	\$420 annual fee for Class A license \$220 annual fee for Class B license \$280 annual fee for Class C license
Animal Dealer; Annual License	\$115 annual fee	\$220 annual fee
Animal Trucker; Annual License	\$30 annual fee	\$60 annual fee
Animal Transport Vehicle; Annual Registration Sticker	\$10 annual fee per vehicle	\$20 annual fee per vehicle

Appendix B

Fee Impact by Industry Sector

DATCP estimates that the fee increases in this rule will have the following aggregate impact on the following industry sectors (some industry sectors may pass on fee costs to clients or customers). Fee costs identified by an asterisk (*) will begin in FY 2008-09. Other fee costs will be delayed until FY 2009-10

<u><i>Industry Sector</i></u>	<u><i>Fee Type</i></u>	<u><i>Number</i></u>	<u><i>Aggregate Annual Cost for Industry Sector¹</i></u>
Veterinarians	Certificates of Veterinary Inspection (Forms)	38,642 certificates (inter- and intra-state)	\$89,130 *
	Johne's Disease Vet Certification (Voluntary)	100 vets annually (3-year certification)	\$5,000
Farm-Raised Deer Keepers	Annual Herd Registration (and 10-yr. hunting preserve certificate)	656 herds	\$112,050
	TB and brucellosis-free herd certifications (Voluntary, facilitates sales)	131 herds	\$6,550
Fish Farmers	Annual Fish Farm Registration	2,279 fish farms	\$56,050*
	Fish Import Permits	100 permits annually	\$4,000*
Animal Markets	Annual License	124 markets	\$17,220
Animal Dealers	Annual License	337 dealers	\$35,385
Animal Truckers	Annual License	362 truckers	\$10,860

¹ Some costs may be passed on to customers. For example, veterinarians may pass on some increased costs to their farmer clients. Cost-shifting may depend on competitive conditions.

Appendix B (continued)

Animal Transport Vehicle	Annual Vehicle Registration	864 transport vehicles	\$8,640
Equine (Horse) Quarantine Stations	Annual permit	17	\$11,700
Poultry Farmers	NPIP Annual Flock Enrollment (Voluntary, facilitates sales)	210 flocks	\$6,690
Poultry Testers	NPIP Tester Training (Voluntary, allows tester to do NPIP testing)	300 trained each year	\$7,500
Import Feedlots; Cattle	Import Feedlot Permit (Voluntary, facilitates imports)	35 annual permits each year	\$2,275
Livestock Farmers; Cattle	Disease-Free Herd Certification (Voluntary, facilitates sales & exports)	22 herds certified annually (11 TB and 11 brucellosis)	\$1,100
Livestock Farmers; Swine	Brucellosis-free herd certification (Voluntary, facilitates sales & exports)	10 herds	\$500
	Pseudorabies-negative herd certification (Voluntary, facilitates sales and exports)	10 herds	\$500
Livestock Farmers; Sheep	Brucella-ovis free herd certification (Voluntary, facilitates sales & exports)	None	\$0
Livestock Farmers; Goats	Brucella-ovis and TB-free herd certifications (Voluntary, facilitates sales & exports)	None	\$0

Aggregate Annual Cost for All Industry Sectors:

\$375,150