



State of Wisconsin
Governor Scott Walker

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

DATE: October 11, 2012

TO: The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
PO Box 7882
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The Honorable Jeff Fitzgerald
Speaker, Wisconsin State Assembly
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FROM: Ben Brancel, Secretary
Department of Agriculture, Trade and Consumer Protection

**SUBJECT: Livestock Premises Registration, Ch. ATCP 17; Final Draft Rule
(Clearinghouse Rule #12-024)**

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.

Background

DATCP administers Wisconsin’s animal health and disease control programs. Under current livestock premises registration law, a person who keeps livestock at a location in this state is required to register that location with the department.

Rule Content

Livestock premises registration periods are currently staggered so that some premises registrations end on December 31 of every year. This rule will end the staggering of registrations so that all premises registrations simultaneously end during the same three-year period as a cost savings measure. It will also end all registrations on July 31 instead of December 31 to ensure that the department can hire sufficient temporary staff to handle the increase in workload once every three years. The rule also will provide a religious exemption for certain individuals with sincerely held religious beliefs against certain livestock premises registration requirements under s. 95.51 (2), Stats., and ch. ATCP 17, Wis. Adm. Code. This rule will not increase costs for livestock operators.

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Public Hearings

DATCP held two public hearings on this rule. The dates and locations of the hearings were:

May 1, 2012 Marshfield
May 2, 2012 Madison

Written comments were accepted until May 16, 2012. A total of five people attended the hearings and eight people submitted written comments. Specifically:

- 3 opposed the rule and thought premises registration should be voluntary.
- 2 opposed the rule but made unclear comments as to why.
- 1 did not specify a position but believed a religious belief for an exemption should be enough and membership in a religious organization should not be required.
- 1 did not specify a position, supported the religious exemption, but opposed the requirement to submit an affidavit or telephone number.
- 1 did not specify a position but had a concern about exempting the Amish.
- 5 did not specify their position, but one submitted a letter stating their concern that the date change will not be as beneficial or save as much money as the department claims.

A summary of public comments is attached.

Changes from the Hearing Draft

In response to the public hearing comments, DATCP modified the requirement that an individual provide his or her telephone number to clarify that the number only needs to be provided if available. The comment to make premises registration voluntary would not be possible through a rule change, since the requirement to register livestock premises is statutory under s. 95.51(2), Stats. This rule creates a religious exemption for individuals with sincerely held religious beliefs against certain premises registration requirements described in the rule and is not limited to any specific religion. The department is relying on its experience in administering other programs to determine projected cost savings under this rule.

Other minor changes were made based on Legislative Council Clearinghouse comments (below).

Response to Rules Clearinghouse Comments

The Legislative Council Rules Clearinghouse made a number of comments on the hearing draft rule. The final rule addresses all of the comments, except as noted below:

Response to Comment 2.f. Clearinghouse suggested that in SECTION 5 of the rule text, it was unclear to what the phrase “Except as provided in sub. (2)” refers. In response, that phrase has been removed for clarity.

Response to Comment 5.a. Clearinghouse questioned why the date, July 31, 2013, was chosen as the start-up point for expirations and whether the date should be linked to the date of the registration. The year 2013 is used to give the department and registrants ample time to prepare for the new registration timeline. Currently, all premises registration periods are staggered so that some registrations end on December 31 of every year. The intent of the rule is to make all registrations end and be re-issued on July 31, 2013. Thus, current registrations and all subsequent registrations, will become due every three years after July 31, 2013 (2016, 2019, 2022, *etc.*), regardless of the year the registration is issued.

Response to Comment 5.b. Per suggestions made by Clearinghouse, the phrase “there is none” under s. ATCP 17.02 (1) (b) 3. e., has been replaced with “or if the individual does not own a telephone.”

Response to Comment 5.c. Clearinghouse asked whether the term “individual” rather than the term “person” should have been used under s. ATCP 17.02 (1) (b). The department determined that the use of the term “individual” is proper in this part of the rule.

Fiscal Impact

The department anticipates no fiscal effect on state or local governments. The rule may result in an increase in the number of livestock operation business licenses issued by the department.

Business Impact

This rule will likely have a positive effect in terms of encouraging the expansion of small businesses. Those individuals who may have religious objections to the premises registration requirement can obtain an exemption to registration under this rule and be eligible for business licensure for which premises registration is a prerequisite, *e.g.*, deer farms or animal market operations.

This change of the due date to register premises, from December 31 to July 3, and the elimination of staggering the due dates will have no negative impact on businesses because there is no fee to register, regardless of the date the registration is due.

Economic Impact

The department anticipates no fiscal effect on state or local governments. The rule may result in an increase in the number of livestock operation business licenses issued by the department.

Federal and Surrounding State Programs

Federal Programs:

Most animal health regulations are adopted and administered at the state level. However, the United States Department of Agriculture (USDA) administers federal regulations related to the interstate movement of animals, particularly with respect to certain major diseases. States regulate intrastate movement and imports into the state. States certify the disease status of certain herds at the request of herd owners, to facilitate interstate movement of animals from those herds. States also license and regulate entities such as animal markets, animal dealers and animal truckers (regulations vary by state). Wisconsin's livestock premises registration program is a leading program in the nation and has provided a model for proposed federal programs.

State regulation of interstate animal movement is generally consistent with federal standards. However, states may impose additional import requirements if those requirements are reasonably designed to prevent the spread of disease. Wisconsin's current rules related to livestock premises registration are consistent with the federal system for registering livestock premises, although the federal program is voluntary. Premises registration is the foundation of the federal traceability law, which is scheduled to go into effect in 2012. This federal law has minimal requirements for interstate movement of livestock.

Surrounding State Programs:

Surrounding state animal health programs are generally comparable to those in Wisconsin. However, disease regulations and control programs may reflect differences in animal populations, animal-based industries, and disease threats in the different states.

- Minnesota has mandatory livestock premises registration for farm-raised cervids and voluntary livestock premises registration for all other livestock. Any keeper of livestock can register. Information is updated if the producer provides the information.
- Iowa has voluntary livestock premises registration.
- Michigan has mandatory livestock premises registration for cattle. Cervids and aquaculture are required to be licensed by the Michigan Department of Natural Resources, and this includes a premises registration. All other livestock may be registered voluntarily. There is no specific renewal requirement for premises registration.
- Illinois has voluntary livestock premises registration. There is no renewal of premises registration.

Honorable Fred Risser
Honorable Jeff Fitzgerald
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- Indiana has mandatory livestock premises registration for cattle, sheep, goats, swine, bison and farmed cervids. Horses, aquaculture and poultry may register voluntarily. Renewal of premises registration is voluntary.