

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: **Animal markets, dealers, and truckers, including fees, and affecting small businesses**
Adm. Code Reference: **ATCP 12**
Rules Clearinghouse #:
DATCP Docket #: **22-R-13**

Rule Summary

Fees

The proposed rule modifies and increases fees for animal markets, animal dealers, and animal truckers. Most fees in this rule were last increased in 2009 (CR 07-61). Over time, standard costs have continued to increase. The associated program revenue appropriation (appropriated by Wis. Stat. § 20.115 (2) (ha)) no longer has adequate revenue to recover costs. DATCP is not able to reduce expenditures to the level of current revenues without resulting in a failure to fulfill statutory requirements under Wis. Stat. chs. 93 and 95.

The following table shows the current and proposed fee amounts.

ATCP 12 Fee Proposals

Program Area	Fee Description	Interval (Years)	Current Fee	Proposed Fee
Animal Markets	Registration: Animal Market Class A	1	420.00	7,430.00
	Registration: Animal Market Class A to B	1	420.00	770.00
	Registration: Animal Market Class B	1	220.00	770.00
	Registration: Animal Market Class E	1	280.00	975.00
	Late Fee: Animal Market Class A	NA	84.00	1,486.00
	Late Fee: Animal Market Class B	NA	44.00	154.00
	Late Fee: Animal Market Class E	NA	56.00	195.00
	Surcharge: Animal Market Class A	NA	100.00	100.00
	Surcharge: Animal Market Class B	NA	100.00	100.00
	Surcharge: Animal Market Class E	NA	100.00	100.00
	Reinspection: Animal Market Class A	NA	150.00	465.00
	Reinspection: Animal Market Class B	NA	150.00	465.00
	Reinspection: Animal Market Class E	NA	150.00	465.00
Animal Dealers	Registration: Animal Dealer	1	220.00	670.00
	Late Fee: Animal Dealer	NA	44.00	134.00
	Surcharge: Animal Dealer	NA	100.00	100.00
	Reinspection: Animal Dealer	NA	150.00	465.00
Animal Truckers	Registration: Animal Trucker	1	60.00	370.00
	Late Fee: Animal Trucker	NA	12.00	74.00
	Surcharge: Animal Trucker	NA	100.00	100.00
	Reinspection: Animal Trucker	NA	150.00	465.00
	Registration: Animal Transport Vehicle	1	20.00	70.00
	Late Fee: Animal Transport Vehicle	NA	5.00	14.00
	Surcharge: Animal Transport Vehicle	NA	100.00	100.00

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

Program

The proposed rule also modifies ch. ATCP 12 for improvements and updates.

General

Minor language changes are made throughout ch. ATCP 12 for updates, clarity, and consistency. For example, "USDA" is standardized to "U.S. department of agriculture" throughout the chapter.

Language is added to the license applications to require the name of an individual as authorized license contact.

The current requirement to provide adequate food, water, shelter, bedding, and pen space is amended to mirror language in Wis. Stat. s. 951.13 and 951.14. The current requirement to remove market bovine calves less than 12 weeks old from the animal market within 24 hours of sale is amended to apply to any animals under 12 weeks old. The current rule requires that animal markets remove these animals within 24 hours, and the proposed rule adds this language to the requirements for animal dealers as well.

The requirement to comply with federal regulations when moving cattle interstate is amended to apply to any livestock.

Definitions

Definitions are amended for updates and clarity. Unnecessary definitions for terms that are not used in ch. ATCP 12 are repealed. Additional terms are defined for clarity and consistency. The definition of official individual identification for bovines is updated to reflect current USDA requirements. The definition of official individual identification for equines is updated to allow more flexibility. The definition of shipment to slaughter is amended to clarify that a licensed animal dealer is allowed to move purchased animals from a licensed animal market to the dealer's premises and then to a licensed slaughtering establishment, as long as the animals are not commingled with animals that are not in shipment to slaughter.

Animal Markets

The proposed rule amends class B markets to allow 12 sales per year, rather than the current 4. Entities who hold sales 5 to 12 times per year, who would currently have to license as class A, would instead license as class B. This change influences the fee impacts, as the class B license fee is lower than the class A license fee.

The current requirement for animal markets to be equipped with an animal chute and head gate, except for markets used exclusively to sell equine animals or wild animals, is amended to apply only to animal markets that sell farm-raised deer or bovine animals, except for fawns and baby calves.

Animal Dealers

Language is added to clarify that engaging in the exchange of livestock, including for the purposes of rescue or rehabilitation, is included in the animal dealer license requirement. A license exemption is added for a person who trains or rehabilitates horses and retains ownership of the horses for over 90 days. A license exemption is also added for a person who solely delivers livestock or wild animals from out of state to a Wisconsin slaughtering establishment and does not receive any animals within this state, similar to a current license exemption for animal truckers.

Animal Truckers

A license exemption is added for a person who is solely engaged in hauling animals on an incidental basis in connection with a slaughtering establishment, which is operated by that person and does not ordinarily involve the sale of animals. The current exemption for a person who solely transports livestock or wild animals from out of state to a Wisconsin slaughtering establishment is amended for clarity.

Animal Transport Vehicles

Where appropriate, language is amended to refer directly to the annual registration, rather than the sticker. Requirements for the display of information on the vehicle is amended to allow more flexibility.

Identification of Livestock

The current exemptions to bovine identification requirements are divided into subunits for clarity. The current definition of feeder cattle is merged into the list of exemptions, because it is the only place the term is used. The exemption for calves under 6 months is amended to be calves under 700 pounds, because pounds is easier to know, measure, or estimate than months. The updated exemption of 700 pounds includes more calves than the current exemption, because a 700 pound calf is typically closer to roughly 10 months old.

Where appropriate, language regarding commingling animals is changed to mixing animals. Commingling has a specific definition that is not applicable in these instances.

Identification requirements for equine animals are amended to be consistent with other species.

Records: General

Records requirements are divided into subunits for clarity. Records requirements regarding locations are updated for clarity and to allow the use of a GPS location as an alternative to an address. A requirement is added to record the name and address of the person with the final bid on the animal that was purchased.

Death records requirements are amended to remove the apparent cause of death, and replace it instead with the date of death, whether the animal was found dead or euthanized, and any official identification on the animal.

Records: Markets and Dealers

Exemptions are added to current identification records requirements, to exempt the requirement if shipment to slaughter occurs or when the animal is purchased for another licensed animal dealer who retains the record, and to allow the use of the scrapie flock identification number issued by USDA in place of individual identification for sheep and goats. If the animal leaves the market for shipment to slaughter, a signed statement by the buyer or purchaser must be recorded to confirm that the animal is shipping to slaughter.

The current requirement to record the species, age, and sex of the animal is made to apply to all animals, and not just those without official individual identification. The requirement is also amended to allow age class in place of age, and to require the approximate weight of bovine animals.

Language regarding the recording of a certificate of veterinary inspection is amended for clarity to include movement documents that are required under chs. ATCP 10 or ATCP 12.

The current requirement to record bovine and swine animals' breed or class is amended to apply to any animal. The classification of crossbreed beef and dairy animals is changed from being classified as beef breed to dairy breed, to reflect current federal classifications.

Records: Truckers

For clarity, the requirement to record the number of animals is amended to the quantity of animals. The requirement to record the age of animals is amended to allow age class in place of age.

The requirement to record the owner of each animal is removed.

Prohibited Conduct

Due to proposed changes to the records requirements to allow age class in place of age, age class is also added to the current prohibition of knowingly making a false report or statement to the department concerning the age of livestock. Age class is also added to the current prohibition of misrepresenting to any person the age of any animal.

Where practical, general requirements and prohibitions are removed from their individual sections and merged into s. ATCP 12.08 for clarity and consistency.

Current prohibitions that do not allow a person to commingle animals of different species in the same vehicle or enclosure are merged and amended to be less restrictive. The merged and amended language instead just prohibits holding animals that are not of a comparable size in the same pen or animal transport vehicle, unless the animals are segregated, or separated by a rigid barrier, to prevent injury.

Small Businesses Affected

The proposed rule would impact animal markets, animal dealers, and animal truckers. There are currently:

- 16 class A markets
- 15 class A markets that would become class B under the proposed rule
- 21 class B markets (not including the 15 above)
- 3 class E markets
- 258 animal dealers
- 332 animal truckers

- 1,001 animal transport vehicles

The proposed rule would also impact animal health, animal industries, and public health. While Wisconsin's program fees are collected from a small number of licensees, these critical programs have impacts and benefits across animal health, animal industries, and public health.

The Department held a preliminary public hearing on the statement of scope on March 26, 2024, with comments accepted through April 1, 2024. In addition to publication in the Administrative Register, the Department also sent an email notice to licensees on March 18, 2024. The public hearing was a hybrid, combining in-person attendance at the DATCP building and remotely via zoom, with both internet access and telephone access.

Reporting, Bookkeeping and other Procedures

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Professional Skills Required

The proposed rule does not create any new professional skills requirements.

Accommodation for Small Business

Pursuant to Wis. Stat. § 227.22 (2) (e), the rule applies to small businesses on the first day of the 3rd month commencing after the date of publication of the rule. Based on current projections for the timeline of the rules process, the proposed rule would become effective for all entities by the middle of Fiscal Year 2027 (approximately November 2026).

Conclusion

The proposed rule modifies and increases fees for animal markets, animal dealers, and animal truckers. Most or all affected entities are small businesses, pursuant to the definition under Wis. Stat. § 227.485 (2) (c). The economic impact could be significant for individual entities. Pursuant to Wis. Stat. § 227.22 (2) (e), the rule applies to small businesses on the first day of the 3rd month commencing after the date of publication of the rule. Based on current projections for the timeline of the rules process, the proposed rule would become effective for all entities by the middle of Fiscal Year 2027 (prior to the renewal in June 2027).

Dated this 12th day of June, 2025.

WISCONSIN DEPARTMENT OF AGRICULTURE,
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