

# STATEMENT OF SCOPE

## Department of Agriculture, Trade and Consumer Protection

Rule No.: Ch. ATCP 12, Wis. Admin. Code (Existing)

Relating to: Animal Markets, Dealers and Truckers

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

Not applicable.

### 2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to evaluate and modify animal markets, dealers, and truckers program fees and to evaluate the program for improvements and updates. The following table shows the existing fees relevant to this rule, as well as the statutory authority and the year that the fee was last changed. Most fees in this rule were last evaluated in 2009. Over time, standard costs have continued to increase. The associated program revenue appropriation (appropriated by Wis. Stat. s. 20.115 (2) (ha)) no longer has adequate revenue to recover costs. The department 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.

Program Area	Fee Description	Fee Last Changed	Admin. Code Citation	Statutory Authority Citation	Current Fee
Animal Market	Registration: Animal Market Class A	2009	ATCP 12.02 (4) (a) 1.	95.68 (4) (a)	420.00
	Registration: Animal Market Class B	2009	ATCP 12.02 (4) (a) 2.	95.68 (4) (a)	220.00
	Registration: Animal Market Class E	2009	ATCP 12.02 (4) (a) 3.	95.68 (4) (a)	280.00
	Reinspection: Animal Market	2012	ATCP 12.02 (9m) (a)	95.68 (4) (b)	150.00
Animal Dealer	Registration: Animal Dealer	2009	ATCP 12.03 (5) (a)	95.69 (4) (a)	220.00
	Reinspection: Animal Dealer	2012	ATCP 12.03 (9m) (a)	95.69 (4) (b)	150.00
Animal Trucker	Registration: Animal Trucker	2009	ATCP 12.04 (4) (a)	95.71 (5) (a)	60.00
	Reinspection: Animal Trucker	2012	ATCP 12.04 (8m) (a)	95.71 (5) (c)	150.00
	Registration: Animal Transport Vehicle	2009	ATCP 12.045 (3) (a)	95.71 (5) (b)	20.00

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

#### *Existing Policies Relevant to the Rule:*

This rule relates to the animal markets, dealers, and truckers program. The table under section 2 shows the existing fees relevant to this rule, as well as the statutory authority and the year that the fee was last changed. Most fees in this rule were last evaluated in 2009.

The existing rule also includes program requirements for licensees, including requirements related to licensing, identification of livestock, records, handling downer animals, and prohibited conduct.

#### *New Policies Proposed to be Included in the Rule and Analysis of Policy Alternatives:*

The department proposes evaluating and modifying animal markets, dealers, and truckers program fees to ensure there is adequate cost recovery. This includes evaluating and modifying existing fee amounts and evaluating and modifying or adding categories related to these programs within existing statutory authority. The associated appropriation is currently under-recovering. Without the proposed rule, the department would not be able to evaluate animal markets, dealers, and truckers program fees. The appropriation would continue to under-recover and would develop a negative cash balance.

The department also proposes evaluating the program for improvements and updates, including definitions, license categories and types, regulations related to license categories and types, identification requirements, records requirements, enforcement measures, and modifications for clarity and consistency. Without the proposed rule, the department would not be able to evaluate the program for improvements and updates.

#### **4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Citations to specific statutory authority are included in section 1. The language from these citations is included below.

Section 95.68 (2m) (b), Stats., authorizes the department to promulgate rules exempting groups or persons from the licensing requirement of animal markets or animal transport vehicles as follows:

**95.68 (2m) (b)** The department may promulgate rules to exempt groups of persons from the licensing requirement under sub. (2) or the registration requirement under sub. (7) or both.

Section 95.68 (4), Stats., authorizes the department to charge fees for the licensing of animal markets and reinspection as follows:

**95.68 (4) License Fee; Reinspection Fee.**

(a) The department shall, by rule, specify the fee for an animal market license issued under this section.

(b)

1. If the department reinspects an animal market because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal market operator the reinspection fee specified under subd. 2.
2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal market. The department may specify different reinspection fees for different animal markets.
3. A reinspection fee under this paragraph 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 a license renewal application form to the animal market operator.

Section 95.68 (8), Stats., authorizes the department to promulgate rules related to animal markets as follows:

**95.68 (8) Rules.** The department may promulgate rules to regulate the operation of animal markets, including rules related to market operator qualifications, market construction and maintenance, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

Section 95.69 (2m), Stats., authorizes the department to promulgate rules exempting groups or persons from the licensing requirement of animal dealers or animal transport vehicles as follows:

**95.69 (2m) Exemption.** The department may promulgate rules to exempt groups of persons from the licensing requirement under sub. (2) or the registration requirement under sub. (7) or both.

Section 95.69 (4), Stats., authorizes the department to charge fees for the licensing of animal dealers and reinspection as follows:

**95.69 (4) License Fee; Reinspection Fee.**

- (a) The department shall, by rule, specify the fee for an animal dealer license issued under this section.
- (b)
  - 1. If the department reinspects an animal dealer operator because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal dealer the reinspection fee specified under subd. 2.
  - 2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal dealer operation. The department may specify different reinspection fees for different animal dealer operations.
  - 3. A reinspection fee under this paragraph 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 a license renewal application form to the animal dealer.

Section 95.69 (8), Stats., authorizes the department to promulgate rules related to animal dealers as follows:

**95.69 (8) Rules.** The department may promulgate rules to regulate animal dealers, including rules related to animal dealer qualifications, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

Section 95.71 (5), Stats., authorizes the department to charge fees for the licensing of animal truckers, registration of animal transport vehicles, and reinspection as follows:

**95.71 (5) License Fee; Registration Fee; Reinspection Fee.**

- (a) The department shall, by rule, specify the fee for an animal trucker license issued under this section.
- (b) The department shall, by rule, specify the fee to be paid for each animal transport vehicle registered under sub. (4). 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 fee required under this paragraph at the time of registration.
- (c)
  - 1. If the department reinspects an animal trucker operation because the department has found a violation of this chapter or rules promulgated under this chapter, the department shall charge the animal trucker the reinspection fee specified under subd. 2.
  - 2. The department shall specify the reinspection fee to be charged under subd. 1. by rule. The reinspection fee may not exceed the reasonable costs to reinspect the animal trucker operation. The department may specify different reinspection fees for different animal trucker operations.
  - 3. A reinspection fee under this paragraph 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 a license renewal application form to the animal trucker.

Section 95.71 (8), Stats., authorizes the department to promulgate rules related to animal truckers as follows:

**95.71 (8) Rules.** The department may promulgate rules to regulate animal truckers, including rules related to animal trucker qualifications, construction and maintenance of animal transport vehicles, identification of animal transport vehicles, disease sanitation, humane treatment of animals, identification of animals, record keeping, reports to the department and compliance with applicable financial security requirements under state or federal law.

##### **5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The department estimates that it will use approximately 600 hours to develop this rule.

**6. List with description of all entities that may be affected by the proposed rule:**

Animal markets, dealers, and truckers may be affected by the proposed rule.

The proposed rule may also impact consumers, animal owners, and other persons and groups who benefit from the department fulfilling its animal health duties under Wis. Stat. chs. 93 and 95.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

DATCP administers animal disease control programs in cooperation with the United States Department of Agriculture – Animal and Plant Health Inspection Service (USDA APHIS). Federal cooperative agreements with USDA APHIS partially fund specific work objectives, which does not include work and costs associated with these program fees. USDA APHIS does not license animal businesses and does not regulate state fees. This rule does not duplicate or conflict with any federal fees or standards.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The objective of the proposed rule is to evaluate and modify fee amounts for the animal markets, dealers, and truckers program. Most affected entities are small businesses, pursuant to the definition under Wis. Stat. s. 227.485 (2) (c).

The overall anticipated economic impact is moderate but could be significant for individual entities depending upon the individual business and the amount of the fee change evaluated.

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Signed this 5 day of May, 2023



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