



Wisconsin Department of Agriculture, Trade and Consumer Protection

Division of Animal Health

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GUIDANCE DOCUMENT

Late Fee Surcharge

This guidance document is based on Wis. Stat. chs. 93 and 95 and chapter(s) ATCP 10, ATCP 12, and ATCP 16 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

Policy regarding applying a late fee or surcharge to an animal health license.

<i>Darlene M. Konkle</i>	11/24/2020
Dr. Darlene Konkle - Administrator Division of Animal Health	DATE

Contributors:

Policy Number:	LIC-004
Date:	7/20/2020
Staff Affected:	All Staff
Subject:	Applying a Late Fee or Surcharge to an Animal Health License
Replaces:	LIC-004 (4/17/15)

BACKGROUND

For purposes of this policy the term license means any license, permit, registration or certificate issued by the Division.

The division has the authority to assess penalties in addition to the regular license fees if licensees fail to return their application for the renewal of a license in a timely manner. Additionally, an applicant that is found to be operating without an active license is subject to license fee surcharges in addition to normal license fees.

Late fees are set by statute: s. 93.21 (5) (b) "A person who files an application for the renewal or reissuance of a license after the license has expired shall pay, in addition to the fee for the license, an additional fee equal to 20% of the license fee or \$5, whichever is greater...."

License Fee Surcharges for Animal Truckers, Animal Dealers, Animal Markets and Animal transport vehicles are set by statute. Other fee license surcharges are set by administrative rule.

POLICY

Late Fees

Late fees are assessed and due on a renewal application if it is not both complete and received by the Department or agent of the Department (i.e., bank payment posting for automated or manual lockbox) by one minute after midnight on the expiration date of the previous license issued by the Division.

An application for a license may not be considered an application for the renewal or reissuance of the license if the application is filed more than one year (365 days) after the date of expiration of the original license. If the application is submitted more than 365 days after expiration, the license is not subject to a late fee. The applicant must meet all the requirements of original licensure, and may be subject to a license fee surcharge (described below) if the applicant has been operating without a license within the 365 day period before application submission.

A license cannot be issued until all fees, including late fees due, are paid.

Late fees are assessed as follows:

License/Registration Type	License Fee	Late Fee (Applied on day after expiration through the following 365 days)
Type 1 Fish Farm		
1 Fish Farm Premises	\$ 37.50	\$ 7.50
2 or more Fish Farm Premises	\$ 50.00	\$ 10.00
Type 2 and Type 3 Fish Farm		
1-5 Fish Farm Premises	\$ 125.00	\$ 25.00
6-10 Fish Farm Premises	\$ 150.00	\$ 30.00
11-20 Fish Farm Premises	\$ 200.00	\$ 40.00
21 or more Fish Farm Premises	\$ 300.00	\$ 60.00
Animal Market		
Class A	\$ 420.00	\$ 84.00
Class B	\$ 220.00	\$ 44.00
Class E	\$ 280.00	\$ 56.00
Animal Dealer	\$ 220.00	\$ 44.00
Animal Trucker	\$ 60.00	\$ 12.00
Animal Transport Vehicle/Registration Sticker	\$ 20.00	\$ 5.00
Farm-Raised Deer Registration		
<15 not CWD enrolled and not a hunting preserve	\$ 85.00	\$ 17.00
<15	\$ 162.50	\$ 32.50
>15	\$ 325.00	\$ 65.00
Approved Import Feed lot Permit	\$ 140.00	\$ 28.00
Brands – Initial	\$ 20.00	\$ 0.00
Brands – Renewal	\$ 10.00	\$ 0.00
Dog Sellers		
Animal shelter/control facility/nonprofit	\$ 125.00	\$ 25.00
25 – 50 dogs	\$ 250.00	\$ 50.00
50 – 100 dogs	\$ 500.00	\$ 100.00
100 – 250 dogs	\$ 750.00	\$ 150.00
250 or more dogs	\$1,000.00	\$ 200.00
Out-of-state dog seller	150% of the fee calculated based on # of dogs	20% of the cost of the out-of-state license

License Fee Surcharges

Original Licenses: A license fee surcharge is assessed to an applicant for an original license when the division determines that within 365 days prior to submitting the license application the applicant operated in the capacity for which the license is required. For example, the department determines that an applicant for a farm-raised deer keeper registration has kept deer in any of the 365 days prior to submitting the application for a farm-raised deer keeper registration.

A license cannot be issued until all fees, including surcharges due, are paid.

Only one license fee surcharge can be collected per license – they are not applicable to multiple years of non-licensure. For example, a trucker that the department has determined to have been active for 5 years without being appropriately licensed is subject to a single \$100 license surcharge fee when the trucker applies for original licensure.

Renewals: Surcharges can also be assessed on a licensee that has failed to respond to the official license renewal notices sent to him/her (see LIC-001) and has continued to undertake the activity after the license expiration date. If there is no response within the 10-day deadline specified in the final renewal notice, the license program associate creates a case (for farm-raised deer, fish farms and dog sellers) or a list of non-renewals (for truckers/markets/dealers), and the inspector assigned to that case or non-renewal list verifies whether the person with an expired license is still operating. If the person has been operating, a surcharge fee is assessed at the time of application.

The assessment and payment of a license fee surcharge does not prevent the division from pursuing further civil penalty for past operating without a license, such as civil forfeitures, etc.

Current license fee surcharges are as follows:

License/Registration Type	Surcharge*	Rule/Statute Reference
Type 1 Fish Farm		
1 Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
2 or more Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
Type 2 and Type 3 Fish Farm		
1-5 Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
6-10 Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
11-20 Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
21 or more Fish Farm Premises	Equal to the cost of license	§ ATCP 10.61(7)
Approved Import Feed lot Permit	No Surcharge authority (permit is not required to operate a Feed lot)	§ ATCP 10.22(9)

License/Registration Type	Surcharge* cont.	Rule/Statute Reference
Animal Market		
Class A	\$ 100.00	§ ATCP 12.02(4)(b) Wis. Stat. § 95.68(5)
Class B	\$ 100.00	§ ATCP 12.02(4)(b) Wis. Stat. § 95.68(5)
Class E	\$ 100.00	§ ATCP 12.02(4)(b) Wis. Stat. § 95.68(5)
Animal Dealer	\$ 100.00	§ ATCP 12.03(5)(b) Wis. Stat. § 95.69(5)
Animal Trucker	\$ 100.00	§ ATCP 12.04(4)(b) Wis. Stat. § 95.71(6)
Animal Transport Vehicle/Registration Sticker	\$ 100.00	§ ATCP 12.045(3) See statutory sections above.
Farm-Raised Deer Registration		
<15 not CWD enrolled and not a hunting preserve	\$ 250.00	§ ATCP 10.46(7)(c)
<15	\$ 250.00	§ ATCP 10.46(7)(c)
>15	\$ 250.00	§ ATCP 10.46(7)(c)
Brands	No Surcharge authority (registration of a Brand is not required)	
Dog Sellers		
Animal shelter/control facility/nonprofit	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. §173.41(3)
25 – 50 dogs	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. §173.41(3)
50 – 100 dogs	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. s.173.41(3)
100 – 250 dogs	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. § 173.41(3)
250 or more dogs	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. § 173.41(3)
Out-of-state dog seller	Equal to the cost of the license	§ ATCP 16.08 Wis. Stat. § 173.41(3)

*Surcharge is applied 1) If an applicant is determined to have been operating within 365 days prior to submitting an original application or 2) If an applicant for renewal has failed to respond to the official license renewal notices (LIC-001) and an inspector has verified the entity is still operating.

All the above licenses – **except fish farms and feed lots** – allow for an additional license fee to be collected for the year an entity was operating illegally without a required license. Only one year of “back” license fee can be collected. Other penalties are pursued through creating a complaint (regarding “unlicensed activity”) for the district attorney. Fish farms rules do not include a provision for the division to collect any license fee for a year the owner was operating without a license, only to assess a surcharge fee. The laws for approved import feed lots and official brands do not include a provision for either the assessment of a past year license fee or a surcharge fee.

Examples:

1. A farm-raised deer keeper with less than 15 deer (CWD enrolled), whose license expired on March 15, submits a renewal application on April 10 of the same year.
 - a. The renewal application is late but is received within the second renewal notice 10-day deadline.
 - b. Fees required for the license to be issued, \$195:
 - i. License Fee: \$162.50.
 - ii. Late Fee: \$32.50.
 - iii. License fee surcharge \$0.

2. An Animal Trucker fails to submit an application for the renewal of his 2014-15 Animal Trucker license**. He does not respond to the second notification of failure to renew (see policy LIC-001); his status is marked as not licensed, and his name is added to the non-renewal list that is sent to inspectors. Division staff determines in November 2015 that the individual is operating as an animal trucker and is required to have an active animal trucker license with the department. In November 2015, the trucker files an application with the division for an animal trucker license (additionally the animal trucker would need to register his animal transport vehicle).
 - a. The application would be treated as an application to renew the previous year's license because it is within 365 days of the prior license's expiration.
 - b. Fees required \$297:
 - i. License fee: \$80 for 2015-16. (Animal Trucker: \$60, Animal Transport Vehicle: \$20)
 - ii. Late fee: \$17. (Animal Trucker: \$12, Animal Transport Vehicle \$5)
The applicant would be assessed a late fee because the application for renewal is late (but still within 365 days of license expiration).
 - iii. License fee surcharge: \$200. (Animal Trucker: \$100, Animal Transport Vehicle: \$100)
The applicant was determined to be operating without an active license after the expiration of his/her license on June 30, 2015.

- **Trucker license and Animal transport vehicle registration year July 1 – June 30

3. Field staff identify an individual acting in the capacity of an animal dealer in March 2014. Staff determines that the individual has been acting in this capacity since May 2012. The individual is not licensed with the division and has not been licensed with the division. The individual applies for a dealer license in April 2014.

- a. The application is an application for an original license.
- b. Fees required \$540:
 - i. License fee for the then current licensing year*** (2013-14): \$220
 - ii. License fee for the 2012-13 license year¹ (the department has determined the individual was operating in the capacity of an animal dealer as defined ATCP s. 12.03.): \$220
 - iii. License fee surcharge²: \$100
 The applicant was determined to be operating within the prior 365 days without a license.
 - iv. Late Fee: \$0
 The applicant is not applying for the reissuance of a license that was effective within the prior 365 days.

***Dealer license year July 1 – June 30

Approved by: **Darlene M. Konkle**
State Veterinarian
Darlene M. Konkle, DVM, MS, DACVIM

Date: 7/20/2020

¹ Only one year of back license fee can be collected on division licenses where division authority allows it. Authority exists for the assessment of one year of back license fees to be assessed on the following license applications: Animal Markets, Animal Dealers, Animal Truckers, Animal Transport Vehicles/registration stickers, and Farm-raised Deer Keepers.

² Only one license fee surcharge can be collected for operating within the prior 365 days without a license.