

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on  
Agriculture and  
Insurance  
(SC-AI)

Sample:

Record of Comm. Proceedings ... RCP

- 05hr\_AC-Ed\_RCP\_pt01a
- 05hr\_AC-Ed\_RCP\_pt01b
- 05hr\_AC-Ed\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ **05hr\_CRule\_04-103\_SC-AI\_pt02a**

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*



State of Wisconsin  
Jim Doyle, Governor

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

## PUBLIC NOTICE

### FINAL DRAFT RULE TO LEGISLATURE

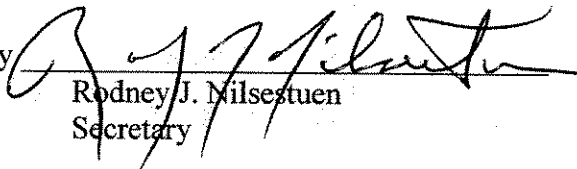
The Department of Agriculture, Trade and Consumer Protection announces that it is submitting the following rule for legislative committee review, pursuant to s. 227.19, Stats.:

CLEARINGHOUSE RULE #: **04-103**  
SUBJECT: **Livestock Premises Registration**  
ADM. CODE REFERENCE: **ATCP 10-12, 17, 55, and 60**  
DATCP DOCKET #: **04-R-03**

Dated this 14<sup>th</sup> day of March, 2005.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND  
CONSUMER PROTECTION

By

  
Rodney J. Nilsestuen  
Secretary

*Agriculture generates \$51.5 billion for Wisconsin*



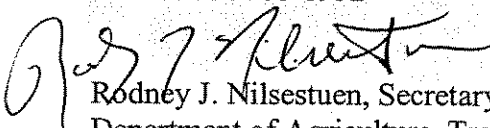
State of Wisconsin  
Jim Doyle, Governor

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

DATE: March 14, 2005

TO: The Honorable Alan J. Lasee  
President, Wisconsin State Senate  
Room 219 South, State Capitol  
P.O. Box 7882  
Madison 53707-7882

The Honorable John Gard  
Speaker, Wisconsin State Assembly  
Room 211 West, State Capitol  
P.O. Box 8952  
Madison 53708-8952

FROM:   
Rodney J. Nilsestuen, Secretary  
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Livestock Premises Registration; Final Draft Rule (Clearinghouse Rule #04-103)**

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 a notice of this referral in the Wisconsin Administrative Register, as provided in s. 227.19(2), Stats.

### Background

This rule implements the livestock premises registration program created by 2003 Wis. Act 229. This program, which was enacted with broad bipartisan support, is intended to protect animal health and the security of the food chain. Among other things, premises registration will facilitate more rapid response to animal disease emergencies.

Under this rule, persons who keep livestock in this state must register annually with the Department of Agriculture, Trade and Consumer Protection ("DATCP"). DATCP will assign a unique premises registration number, generated by the United States Department of Agriculture ("USDA"), to each registered premises. Registration information is confidential, and there is no fee to register. Registration complies with standards contained in the United States Animal Identification Plan ("national plan").

Persons may register on-line if they wish. Persons currently licensed by DATCP may register as part of the current annual licensing process. DATCP will send annual renewal applications, and

*Agriculture generates \$51.5 billion for Wisconsin*

The Honorable Alan J. Lasee  
The Honorable John Gard  
March 8, 2005  
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the renewal process will be simple. The program complies with national plan standards. Over 6,800 premises have already been registered voluntarily, as part of an initial pilot project.

### ***Wisconsin Leads the Nation***

Wisconsin is the first state in the nation to mandate a livestock premises registration program. The Wisconsin program is part of a national effort to create a comprehensive livestock identification system. The national plan spells out goals and standards for all states to follow. The national plan was developed under the auspices of USDA and the United States Animal Health Association, in cooperation with the livestock industry. It calls for a system that can identify all animals and premises exposed to a foreign animal disease (such as foot and mouth disease) within 48 hours after the disease is discovered. This rapid response capability will be critically important in the event of a major animal disease emergency.

This rule addresses livestock *premises* registration, not *animal* identification. But premises registration is a necessary first step toward a comprehensive livestock identification system. By itself, premises registration will also facilitate more effective disease control and emergency response. Under the national plan, each state is responsible for establishing an effective premises registration program that meets national standards.

### ***Program Administration***

The Wisconsin Livestock Identification Consortium ("WLIC") has led the nation in developing a premises registration system that meets national standards. WLIC developed the system with the help of \$2.75 million in federal grant funds over the past 3 years.

Wisconsin's congressional delegation played a key role in securing this funding. DATCP has worked with WLIC to guide system development.

Recently, USDA picked the WLIC system as the prototype for a national system. DATCP will likely contract with WLIC to administer the livestock registration program on behalf of DATCP (the Department of Administration has approved a "sole source" bid process). The contract and this rule will establish clear accountability and confidentiality requirements. DATCP will create links with DATCP's current licensing database, so that most persons currently licensed by DATCP can register their livestock premises as part of their regular annual license renewal.

DATCP has received \$2,000,000 in federal funding for FY 2005. Future federal funding is not assured. DATCP has requested, and hopes to receive, continued federal funding for the registration program. If federal funding is not forthcoming, it will be necessary to fund the premises registration program with state tax dollars or registration fees.

DATCP estimates that the program will affect at least 60,000 livestock premises in Wisconsin, and will cost approximately \$918,000 each year. DATCP will work with the livestock industry and others to promote voluntary compliance but may also take enforcement action against

persons who knowingly refuse to comply. Penalties are equivalent to those under other animal health and food safety laws.

### ***Rule Content***

This rule implements Wisconsin's Livestock Premises Registration Law (2003 Wis. Act 229), which takes effect on November 1, 2005. The rule includes the following key provisions:

#### **Annual Registration Required**

A person may not keep "livestock" in this state unless the livestock premises is annually registered with DATCP. "Livestock" includes cattle, swine, poultry, sheep, goats, horses, farm-raised deer, bison, camelids (such as llamas), ratites (such as ostriches and emus) and fish.

If 2 or more persons have a role in keeping livestock at the same location (for example, if one person owns the livestock, another tends them, and a 3<sup>rd</sup> owns the land), any of those persons may register that location (one registration suffices for all). Registration does not create any "ownership" rights that do not otherwise exist. It merely assigns a code to a location in this state at which livestock are kept. That code normally continues with that location, even if the registrant changes (some exceptions apply).

Operators of livestock facilities currently licensed by DATCP (dairy farms, deer farms, fish farms, animal markets, animal dealer premises, animal trucker premises, slaughter establishments, equine quarantine facilities and rendering establishments) must register the facilities licensed to them and may not let others register those premises for them. Generally, license holders will be able to register as part of their annual license renewal.

#### **Effective Dates**

The registration requirement under this rule will take effect on January 1, 2006, except that for livestock facilities currently licensed by DATCP, the registration requirement will take effect on the first day of the first full license year beginning after January 1, 2006. For example, the registration requirement first applies to a dairy farm on May 1, 2006, because dairy farm licenses expire on April 30 of each year. An annual registration expires on December 31 of each year or, in the case of livestock premises currently licensed by DATCP, on the annual license expiration date.

#### **How to Register**

There is no fee to register livestock premises. A person may register on-line or in writing, on forms prescribed by DATCP. Forms will be readily available from DATCP and its contract agent. DATCP will send annual renewal forms to registrants, to make renewal as easy as possible. Renewals, like initial registrations, may be transacted on-line.

Each registrant must provide the following information:

- Registrant's legal name, any trade names, mailing address, and phone number.
- Primary premises location, and up to 3 secondary locations included in the premises.
- Name and phone number of a contact person with knowledge of livestock movements to and from all locations comprising the premises.
- Type(s) of livestock operation.
- Type(s) of livestock kept.

DATCP or its agent will issue a written or electronic premises registration certificate to each registrant, depending on the form of registration. The registration certificate will include a unique premises registration code generated by USDA (the premises code is assigned to the primary premises location). If the registrant is currently licensed by DATCP (dairy farms, deer farms, livestock markets, etc.), the premises code will be included on the registrant's annual license.

### **Confidentiality**

Premises registration information required under this rule is confidential. Neither DATCP nor its contract agent may disclose the information to any other person or agency (except USDA). DATCP may disclose information collected for premises registration only if necessary to prevent or control disease, to protect public health, *or with permission of the registrant*.

This confidentiality does not apply to information required under other laws. For example, information that was required of license holders and was open to public inspection prior to the effective date of the livestock premises registration law remains open to public inspection. But premises registration information required for the first time under the new law, or under this rule, must be kept confidential.

DATCP may create aggregate information (such as maps and statistics) from registration information, but it may not disclose that information if it would reveal (or make it possible to deduce with certainty) the address or identity of any registrant.

### **Contract Agent**

DATCP may contract with an agent (presumably WLIC) to process registrations, manage registration information, and perform other functions on behalf of DATCP. The registration process must be conducted under the name of DATCP, not the contract agent. DATCP must approve the registration process and forms.

The contract agent may not do any of the following without DATCP approval:

- Change the registration process or forms or charge any registration fee.
- Use or disclose any information that it acquires as DATCP's agent.
- Purport to collect information as DATCP's agent.

- Ask a registrant for permission to use or release confidential information.

A contract agent must specifically identify, to DATCP, the individuals who will handle confidential information. Each of those individuals must sign a confidentiality agreement with DATCP. Neither the contract agent, nor any individual affiliated with the contract agent, may disclose confidential information or use it for financial advantage.

A contract agent must comply with applicable state standards related to the storage, handling and disposition of state records. If a contract is terminated, the contract agent must return all registration records to DATCP. DATCP may terminate a contract at any time.

### **Receiving Livestock from Unregistered Premises**

This rule prohibits the receipt of livestock from unregistered premises for purposes of sale, exhibition or slaughter. But this prohibition does not apply unless USDA or surrounding states impose an equivalent prohibition in all of the surrounding states.

### **Changes to Existing Rules**

This rule modifies current DATCP rules related to the licensing of dairy farms, deer farms, fish farms, animal markets, animal dealer premises, animal trucker premises, slaughter establishments, equine quarantine facilities and rendering establishments, to incorporate by reference the new livestock premises registration provisions under this rule.

### **Hearings**

DATCP held public hearings on this rule at 5 different locations (2 hearing times per location). Hearings were held in Eau Claire on November 9, 2004, Beaver Dam on November 10, Dodgeville on November 15, Green Bay on November 17, and Elkhorn on November 30.

A total of 78 people attended the hearings, and 26 of those persons testified or registered a position. Of those 26 persons, 11 supported the rule, 7 opposed all or part of the rule, and 8 were neither for nor against the rule. Eight persons submitted written comments for the record: 2 of those persons opposed the rule, 4 supported the rule, and 2 provided comments for information only.

A summary of public hearing comments is attached.

### **Changes after Public Hearing**

DATCP made the following changes to this rule after the public hearings:

- Clarified how DATCP will coordinate the licensing (currently required) and premises registration (required under this rule) of dairy farms. Dairy farm license procedures are

different from other license procedures, because dairy plants pay license and renewal fees for dairy farmers (farmers do not submit annual renewal applications).

- Clarified that the operator of a rendering plant or animal food processing plant must register carcass collection and transfer facilities as well as processing facilities.
- Clarified and strengthened confidentiality provisions (nothing in this rule authorizes release of information protected from disclosure under other law).
- Clarified that the contract agent that handles livestock premises registrations for DATCP may not charge registrants an unauthorized fee.
- Clarified that licensed operators may register their operations either as part of the annual license renewal process *or on-line*.
- Removed internally inconsistent language stating that licenses, permits or registration certificates of an operator cannot be affected by failure to register a livestock premises.

### **Response to Rules Clearinghouse Comments**

The Legislative Council Rules Clearinghouse made a number of technical comments on the hearing draft rule. DATCP has modified the final draft rule to address all of the comments except the following:

*Comment 2.c:* It appears that the current reference is correct.

*Comment 2.g:* The rule language is consistent with USDA guidelines (which do not include definitions). Definitions are not critical for this purpose, and state definitions might risk inconsistency with USDA.

*Comment 2.j:* Current language, though technically unnecessary, provides clarification for the affected industry.

*Comment 5.b:* Current provision is clear and adequate.

*Comment 5.c:* Current provision is intended as is.

### **Business Impact**

This rule will affect an estimated 60,000 Wisconsin businesses, including the following businesses among others (many of these businesses are "small businesses"):



- Livestock producers, including dairy, beef, swine, poultry, farm-raised deer, sheep, goat, fish and other livestock producers.
- Horse owners and stable operators.
- Livestock markets, dealers and truckers.
- Slaughter establishments.
- Rendering and dead animal processing establishments.
- Operators of livestock exhibitions.
- Veterinary clinics.

Affected businesses must register their premises annually with DATCP. There is no fee. Businesses can register on-line or in writing. Businesses currently licensed by DATCP, including dairy farms, deer farms, fish farms, animal markets, animal dealer premises, animal trucker premises, slaughter establishments, equine quarantine facilities and rendering establishments, can register when they renew their annual license. DATCP will facilitate annual renewals by sending automatic renewal notices to all registrants.

This rule does not create any new record keeping or reporting requirements, other than the basic annual registration requirement. It does not require businesses to hire any new professional services. This rule establishes a delayed effective date of January 1, 2006, so that affected business will have time to understand and comply with the new registration requirement. For persons currently licensed by DATCP, the effective dates are further delayed to coincide with the start of an annual licensing period.

DATCP will work with the livestock industry to implement the new program, which will have important benefits for the industry. DATCP and its contract agent will implement an information and education program and will provide convenient registration mechanisms for affected businesses. DATCP will also make it easy to register and renew livestock premises registration. DATCP will automatically send renewal forms to registrants, so that registrants need only to update pre-printed information if that information has changed. A small business analysis ("final regulatory flexibility analysis") is attached.

### **Fiscal Estimate**

The livestock premises registration program will have no fiscal impact on local government, but will have a significant fiscal impact on DATCP. DATCP expects to incur annual costs of \$918,600 to implement the program (see fiscal estimate attached). DATCP has received federal funding to cover these costs in FY 2005. However, future federal funding is not assured.

If federal funding is not forthcoming, state funding will be needed. As required by 2003 Wisconsin Act 229, DATCP will submit a biennial budget request for state appropriations (tax dollars or fee revenues) to continue to fund the program through the FY 2005-07 biennium. The Legislature will determine the funding source and amount. This rule does not create any registration fees.

### **Federal Regulations**

There is, as yet, no federal law mandating livestock premises registration at the state level. However, USDA plans to implement a comprehensive livestock identification program that includes state registration of livestock premises. USDA and the United States Animal Health Association have developed a national plan in cooperation with the livestock industry.

Under 2003 Wis. Act 229, Wisconsin rules must be consistent with the national plan. This rule is consistent with the current national plan and will be modified as necessary as the national plan evolves. USDA has funded the development of Wisconsin's premises registration system and may fund its implementation.

### **Adjacent State Regulations**

As of March 1, 2005, Michigan requires livestock premises registration and individual identification of all cattle. The other surrounding states (Illinois, Minnesota and Iowa) have not yet enacted a mandatory livestock premises registration program.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
<b>I. Written Comments Submitted for the Hearing Record</b>				
<b>W1. T. J. Edwards</b>	A. Opposed to premises with fewer than 20 animals of one species needing to register.	Oppose	None	Conflicts with the disease control and area-testing objectives of premises registration.
	B. Opposed to registering premises where the animals do not enter commercial activities.		None	A majority of enforcement will be market-driven, however, disease can occur and affect non-commercially moved animals.
	C. Opposed to an annual registration.		None	Necessary to keep information accurate; renewal is simple and not burdensome.
<b>W2. Jane Barlament</b>	A. Opposed to registering premises unless the livestock will enter the food chain.	Oppose		See comment W1B.
<b>W3. Tim Vander Heiden</b>	A. Concerned that this will raise the cost of moving livestock; cost must be passed along to the consumer or the processor.	Support	None	None required.
	B. Information collected should be kept strictly in the hands of DATCP [Department of Agriculture, Trade and Consumer Protection].		None	Rule already prohibits the Department or its agent from disclosing information, except for narrow exceptions specified by rule.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
<p>W4. Steve Steinhoff, Administrator, Division of Food Safety</p>	<p>A. Milk producers' licenses are renewed by the dairy plants [with which the milk producers are affiliated]. Having the rule require that premises registration forms be sent with the annual milk producer license renewals will not work, since the milk producers will not receive those forms.</p> <p>B. Dead animal collectors and truck transfer stations are not addressed in the proposed rule but should be required to register premises.</p>	<p>For Information Only</p>	<p>Change</p>	<p>Milk producers' premises registration applications will not be sent as part of the dairy license renewal process. Instead, premises registration forms will be sent directly to the milk producers themselves.</p>
			<p>Change</p>	<p>Dead animal collectors will not be required to register because a dead animal collector does not hold carcasses at a premises. However, the rule now clarifies that any truck transfer stations need to be included as locations on the premises processors or rendering plants with which the transfer stations are affiliated.</p>

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
	C. Premises registration requirement should be restricted to meat establishments that slaughter livestock (including poultry), both commercial and custom. DFS licenses many establishments that only process meat products, and these places should not need a registration.		Change	Register only the licensed meat establishments that slaughter livestock (including poultry).
<b>W5.</b> Bill Oemichen, President, WI Federation of Cooperatives	A. Support the rule and the method of registration. Support seeking federal and/or state funding and not associating a registration fee on the registrant.	Support	None	None required.
<b>W6.</b> Richard Klossner, General Manager, Family Dairies USA	A. Would like to see a one-time registration with renewals only when there is a change of ownership.  B. Requests that any [real] property owner who has livestock be the person responsible for registering those locations.	For Information Only		See comment W1C.
	C. The requirement for milk producers to register as part of their annual milk producer license renewal procedure should be deleted, since dairy plants actually register the milk producers.			The flexibility of allowing any person involved with a premises that keeps livestock to register that premises, until one person does so, assures that unnecessary barriers to commerce are not created.  See comment W4A.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
W7. Keri Retallick, EVP, WI Pork Association	A. Asks that a longer time period before re-registration be required under unchanged circumstances in order to eliminate some of the annual administrative burden on both the department and the producer.	Support	None	See comment W1C.
	B. In proposed s. 17.03(2), consider adding, "...except to the extent that such information is already protected by a confidentiality provision provided in such other laws, in which case such confidentiality rights shall be retained." This would prevent the disclosure of information that is provided to DATCP under other laws, and that is also protected from disclosure under those other laws.			
	C. In proposed s. 17.03(3)(d), would like to see the scope narrowed to protecting "human" (as opposed to "public") health, to authorize the disclosure of premises information.			
	D. In proposed s. 17.04(3)(b)2, recommend removing the phrase "with certainty" because it adds no value to this section and may actually create a loophole for disclosure of aggregate information if that information may only "sort of" make it possible to identify a registrant and cause some trouble.			
				Information kept by the Department that was subject to open records prior to the effective date of 2003 Wis. Act 229 remains open to public inspection. But premises registration information required for the first time under premises registration law or this proposed rule must be kept confidential.
				Would be no substantive difference in using "human health" vs. "public health".
				The Department will be using this information for program analysis. Maps may be shared, but only when the exact location is not discernable.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>	
<b>W8.</b> Jeff Lyon, Director, Government Relations, WI Farm Bureau Federation	E. Clarify that the contract agent may not charge the registrant any fee for the provision of these services.		Change	Language specifically stating that contract agents are unable to charge a fee was added. See comment W1C.	
	A. To eliminate some of the administrative burden on both DATCP and the producer, suggests that the annual registration be replaced with a one-time premises registration with notification when change of ownership, type of livestock, or when livestock ceases to be present. Concern is that an annual renewal will lead to an annual registration fee. All citizens should pay a portion of the cost.	Support			
	B. Secondary locations should not be limited to three. There should be no limit.		None		With State Veterinarian's approval, more than three can be registered. Some limit is necessary or the value of the legislation is negated. See comment W7B.
	C. Would like to see the exception to the confidentiality protections for information that producer has provided under other laws include the statement in rule "and that was open to public inspection."				
	D. Would like to see in proposed s. 17.03(3) the release of information limited to protect human health.				See comment W7C.
E. Would like to see the phrase "with certainty" removed from proposed s. 17.04(3)(b).				See comment W7D.	

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
<b>II. Appearances at Hearing</b>				
1. Kevin Lindow - Testimony Eau Claire (EC)	Not opposed in general, but concerned about the cost; producers end up paying for everything when it comes to these things. Additionally would like to be able to use scrapie premises number and scrapie tags.	Oppose	None	The purpose is to standardize all premises ID across species lines. Scrapie registration will be referenced in premises info. Funding is a legislative issue.
2. Yvonne Naugle - Appearance card comment (EC)	"With every township, village, city & county trying to cut budgets, and the State of Wisconsin ... supposed to be cutting also... [w]here is this money coming from?"	Neither for or against	None	No fee associated with this rule. Currently, Department has no statutory authority to charge a fee. Federal funding is in place for the first year.
3. Mike McGowan (EC)	No comment provided.	Support		
4. John D. Lowe (EC)	No comment provided.	Oppose		
5. Rudy Erickson, Northern WI Beef Producers - Testimony (EC)	Concerned that fees will be coming down the road. It is free now, but for how long? Concerned with the animal ID, would like to see some state/federal money for purchasing handling equipment when individual ID becomes mandatory. Moving forward encourages the department to work with the industry.	Neither for nor against	None	See hearing comment 2. Rule does not address animal ID



**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
6. Don Schwandt - Appearance card comment Beaver Dam (BD)	Creates a lot of questions for fairs, shows and swaps.		None	It is important to register all premises at which livestock are kept for effective disease control. Department will provide education designed to reach participants in these venues.
7. Warren O'briion (BD)	No comment provided.	Neither for nor against		
8. Deb Reinhart (BD)	No comment provided.	Support		
9. Raymond Butterbrodt (BD)	Concerned about registration fees.	Support		See hearing comment 2.
10. Mike Druckrey Appearance card comment Green Bay (GB)	Would like to see an exemption due to religious beliefs, primarily the belief that numbers used as an identifier are against my religion. This would be the reason a person would be unwilling to register. Alternatively could use GPS coordinates instead of a 'code'.	Oppose in part	None	This type of scenario will need to be evaluated on a case-by-case basis.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
11. Robert Eilenbecker (GB)	No comment provided.	Oppose		
12. MaryEllen Eilenbecker - Appearance card comment (GB)	The premises registration legislation as passed is not specific enough. Opposed to registering premises with few animals or animals raised for the owner's consumption. The cost of administering the program is prohibitive and borders on harassment of the small homestead operator. Understand the need to register large production operations and to protect the food sources for public consumption. Our objection is to the registration of small hobby farms.	Oppose		See comments W1A and WIB.
13. Norbert Brandt, WILDA - Testimony (GB)	Important to keep it simple, confidential, and it must not cost money to registrant. Concerned with eventual animal ID component because of cost and labor.	Support	None	None required.
14. Mike Salter - Testimony (GB)	Concerned with the annual renewal, should renew less frequently, assure that system is hacker proof using encryption and secure lines to assure confidentiality. What qualifies as a public health reason to release confidential records? Smell? Wants to make sure it is not environmental. Needs to be spelled out that the contract agent can not charge a fee or surcharge.	Support		See comments W1C and W7E. The system will be secured. Public health would be a threat to human health.
15. Paul Krause - Testimony (GB)	Against the annual registration, go to every 4-5 years to save time and money.	Neither for nor against		See comment W1C.

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
16. Jim McCauley, Iowa Co. Land Conservation Committee Testimony Dodgeville (DV)	Very glad to see deer included in the legislation [professional comments as a land conservationist]. Personally compliments the government for taking initiative and glad to see no fee. And the confidentiality is important to maintain.	Support	None	
17. Judy Wehler, Pork Producers - Testimony (DV)	Concerned about the possibility of fees, glad to see the confidentiality area. Would like to see "public" replaced with "human health" risk.	Support		See comment W7C.
18. Richard Keller (DV)	No comment provided.	Support		
19. Deane Thomas (DV)	No comment provided.	Support		
20. RF (Dick) Hauser, WI Cattlemen Association - Testimony (DV)	Confidentiality - concerned that it stays intact. Benefit is to the general public, feel that the entire cost should not be borne by the producer and that administration cost should be borne by GPR. Should be automatic renewal with cancellation requirement.	Neither for nor against		See comment W1C.
21. Ruth Jungbluth (DV)	No comment provided.	Neither for nor against		
22. Willard Jungbluth (DV)	No comment provided.	Neither for nor against		

**Livestock Premises Registration (ATCP 17) Summary of Public Hearing Comments**

<u>Submission Reference</u>	<u>Comment</u>	<u>Registered</u>	<u>Dept. Action</u>	<u>Reason</u>
23. Jim Clark Testimony Elkhorn (EH)	No problem with registering premises; concerned the information remain as confidential as possible.	Support	None	None required.
24. Dell Gigante - Testimony (EH)	Another way to invade day to day lives; it is very bureaucratic. A way for city people to complain about existing farms when they move to the country. This type of legislation is why farms leave Wisconsin. Disease should be controlled at the border, keep it out of WI. First five years – we won't feel it then it will be enforced; it will be a mild form of dictatorship. Not going to make the citizens comfortable; will have fee attached to it down the road	Oppose	None	Opposed to the livestock premises (authorizing) legislation, not the implementation of the rule.
24. Arthur Johnson - Testimony (EH)	Opposed to the proposed numbering system because it is random. The premises number should be traceable to a state, county, and the township. Additionally you would be able to narrow down the origin if there was a computer problem. With no meaning, a premises ID could be made up and used and no one would realize it.	Oppose in part	None	Changing the numbering system would endanger confidentiality; we are using a national allocator for nationwide consistency.
26. Darryl Craig, WI Polled Hereford Assn. (EH)	No comment provided.	Neither for nor against		

<b>FISCAL ESTIMATE</b>		LRB or Bill No. / Adm. Rule No. ATCP 17
DOA-2048 (R 10/94)	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> CORRECTED	<input type="checkbox"/> UPDATED <input type="checkbox"/> SUPPLEMENTAL
Amendment No. (If Applicable)		
Subject: Registration of livestock premises		
<b>Fiscal Effect</b> <b>State:</b> <input type="checkbox"/> No State Fiscal Effect  Check below only if bill makes a direct appropriation or affects a sum sufficient appropriation.  <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input checked="" type="checkbox"/> Increase Costs –  May be possible to absorb within agency's budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
<b>Local :</b> <input checked="" type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<b>5. Types of Local Gov. Unit Affected:</b> <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Counties <input type="checkbox"/> Cities <input type="checkbox"/> Other: <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<b>Fund Source Affected:</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations:
<b>Assumptions Used in Arriving at Fiscal Estimate</b>  2003 Wisconsin Act 229 requires persons who keep livestock in the state to register with the Department of Agriculture, Trade and Consumer Protection (DATCP). The act requires the department to promulgate rules to establish the administration of livestock premises registration. ATCP 17 defines and establishes the requirements for livestock premises registration in the state.  Under ATCP 17, persons who keep livestock at locations in the state must annually register those locations with DATCP which will issue a federally generated premises identification code and maintain the information gathered through the application process in a secure database. It is estimated that over 60,000 locations will be registered for a premises identification code. The department foresees contracting with an organization to perform many of the administrative functions of the program, but will incur expenses related to oversight, compliance, regulatory education and database management.  In order to meet the premises registration requirements, the department anticipates one-time costs of \$42,000 to modify the department's licensing database system in order to interface with the service provider's database system and then annual maintenance costs of \$16,500. The department will also modify some of its current licenses to meet the new requirements of ATCP 17.  Under this rule the department will also develop and implement a compliance program. The department estimates that 3.00 FTE will be needed at an annual cost of \$177,100. The 3.00 FTE will be classified as Animal Health Investigators and will be required to perform a variety of tasks. The tasks will range from informing livestock operators of regulatory registration requirements, responding to individual public inquiries, providing interpretation and guidance to livestock associations and verifying compliance with ATCP 17.  We are assuming for purposes of this estimate that the department will contract the administration of the premises registration system to a service provider. These activities include data entry, help desk services to registrants, data administration, general IT support, web hosting, database hosting, server maintenance, software upgrades and educational outreach to livestock owners on who needs to register and how to register their premises. The service provider will also coordinate outreach activities with partners such as the UW Extension, USDA, industry groups and producers. The department estimates continuing costs of \$725,000 annually for these contracted activities.		
Long - Range Fiscal Implications		
Agency/prepared by: (Name & Phone No.) DATCP Jason Gherke, ph. 608-224-4748	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp, ph. 608-224-4746	Date 7/20/04

**FISCAL ESTIMATE**

DOA-2048 (R 10/94)

ORIGINAL

UPDATED

CORRECTED

SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.

ATCP 17

Amendment No. (If Applicable)

**Subject:**

Registration of livestock premises

Continued

For the purposes of this estimate, GPR is the designated funding source. 2003 Wisconsin Act 229 requires the department to seek federal funding and the department is currently in the application stage of that requirement. 2003 Wisconsin Act 229 also directed the department to include in its biennial budget a proposal for funding the program. The department's biennial budget request is currently being developed.

Total estimated one-time costs are \$42,000 and annual costs are \$918,600.

**FISCAL ESTIMATE WORKSHEET**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

2003 Session

LRB or Bill No/Adm. Rule No.    Amendment No.  
ATCP 17

SUBJECT

**I. One-time Cost or Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
*Costs are recurring; see below.*

II. Annualized Cost:	Annualized Fiscal Impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
1. State Operations - Salaries and Fringes	\$ 177,100	\$ - 0
2. (FTE Position Changes)	( 3.00 FTE)	(-0 FTE)
3. State Operations - Other Costs	\$ 741,500	- 0
4. Local Assistance		- 0
5. Aids to Individuals or Organizations	0	- 0
<b>TOTAL State Costs by Category</b>	<b>\$ 918,600</b>	<b>\$ - 0</b>
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
1. GPR	\$ 918,600	\$ - 0
2. FED	0	- 0
3. PRO/PRS	0	- 0
4. SEG/SEG-S	0	- 0
III. State Revenues -	Increased Revenue	Decreased Revenue
<small>Complete this section only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees)</small>		
• GPR Taxes	\$ 0	\$ - 0
• GPR Earned	0	- 0
• FED	0	- 0
• PRO/PRS	0	- 0
• SEG/SEG-S	0	- 0
<b>TOTAL State Revenues</b>	<b>\$ 0</b>	<b>\$ - 0</b>

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 918,600	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency Prepared by: (Name & Phone No.) DATCP Jason Gherke (608) 224-4748	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 7/20/04
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# Wisconsin Department of Agriculture, Trade and Consumer Protection

## Final Regulatory Flexibility Analysis

**Rule Subject:** Livestock Premises Registration  
**Adm. Code Reference:** ATCP 10-12, 17, 55, 60  
**Rules Clearinghouse #:** 04-103  
**DATCP Docket #:** 04-R-03

### Rule Description

The Department of Agriculture, Trade and Consumer Protection ("DATCP") is adopting this rule to implement Wisconsin's Livestock Premises Registration Law (2003 Wisconsin Act 229), which will take effect on November 1, 2005. Among other things, this rule:

- Requires annual registration of livestock premises in this state. There is no registration fee.
- Defines "livestock" that are affected by the rule.
- Defines what is a livestock "premises".
- Spells out the registration procedure and the information that must be included.
- Requires DATCP to issue a federally-generated premises code to each registered premises.
- Provides that premises registration information is confidential. DATCP may disclose registration information only to certain persons or for certain purposes identified in the rule.
- Allows DATCP to create aggregate information (e.g., maps and statistics) but does not permit DATCP to disclose information that would reveal (or make it possible to deduce with certainty) the address or identity of a registrant.
- Allows DATCP to contract with an agent to process registrations, manage registration information and perform functions on behalf of DATCP related to premises registration. The contract agent must comply with confidentiality and other requirements.



## **Small Businesses Affected by this Rule**

This rule affects the following businesses, among others:

- Livestock producers, including dairy, beef, swine, poultry, farm-raised deer, sheep, goat, fish and other livestock producers.
- Horse owners and stable operators.
- Livestock markets, dealers and truckers.
- Slaughter establishments.
- Rendering establishments and dead animal processing establishments.
- Operators of livestock exhibitions.
- Veterinary clinics.

Many of those affected are "small businesses" as defined in s. 227.114(1)(a), Stats.

## **Effects on Small Business**

This rule requires affected businesses to register livestock premises annually with DATCP. The registration process is simple, and there is no fee. DATCP will send pre-printed annual renewal forms to registered operators, so that the operators need only update information that has changed. This rule will have no significant adverse economic impact on small or large businesses.

This rule will benefit the entire livestock industry and the public at large. Livestock premises registration will strengthen animal disease control, food safety and emergency response. It will also facilitate the marketing of Wisconsin livestock. Premises registration is a first step toward the development of an effective livestock identification and tracking system (this rule does not require livestock identification or tracking).

## **Accommodation for Small Business**

DATCP has concluded that all livestock operations should be subject to the same annual registration requirement under this rule. There is no exemption or different treatment of small business.

The registration program is designed to prevent and control the spread of disease, which recognizes no size classifications. Small livestock operations are susceptible to disease, just like large operations. Disease originating from small operations can spread to large operations, and vice versa. Disease control will be hampered if some livestock premises are exempt from registration, or if registration information is inaccurate or out-of-date.

DATCP believes that annual registration of all livestock operations is necessary to provide reliable and up-to-date information for disease control and emergency response. Although this rule requires annual registration of all livestock premises, regardless of size, DATCP has made the registration process as simple as possible.

Registration will be easy for all livestock operations, including small businesses. Operators may register on-line or by completing a written application form. Operators currently licensed by DATCP may register as part of their annual license renewal. DATCP will facilitate annual renewal by sending pre-printed renewal forms. There is no registration fee, and no need for professional assistance.

DATCP will provide education and outreach, and will seek voluntary compliance by livestock operators. DATCP or its agent will provide information and assistance to help livestock operators comply.

### **Public Hearings**

DATCP held 10 public hearings at 5 locations throughout the state. There was one daytime hearing and one evening hearing at each location, to facilitate public participation. Seventy-eight people attended the hearings, and 26 people testified or registered a position. Eleven supported the rule, 7 opposed all or part of the rule, and 8 expressed neither support nor opposition. Comments included the following:

- *Registration information must be kept confidential.* DATCP agrees, and the rule requires it.
- *Registration should be required only for large operations, or only for operations that keep food animals.* DATCP disagrees. DATCP believes that it is important to register all livestock premises, because disease is not limited to large operations or to food animals.
- *The rule should require one-time, rather than annual, registration.* DATCP disagrees. DATCP believes that annual registration is necessary to ensure that information is accurate and up-to-date. The annual registration process is simple, and there is no fee.
- *DATCP's contract agent should not charge any unauthorized registration fee.* DATCP agrees, and has clarified the rule to prohibit unauthorized fees.
- *Milk producers will not be able to renew their premises registrations with their annual license renewals, because milk producers do not submit annual license renewal applications (dairy plants pay annual renewal fees for milk producers).* DATCP agrees, and has modified the final draft rule accordingly. Milk producers will register with their initial license application. But annual registration renewals will be separate from license renewals (DATCP will send annual registration renewal forms to registered producers).

## Conclusion


This rule implements the livestock premises registration program mandated by the Legislature. DATCP considered all hearing comments and made some changes in response to those comments.

This rule will affect livestock businesses, many of which are small businesses. This rule will not have a significant economic impact on small business, and it is not subject to the delayed small business effective date under s. 227.22(2)(e), Stats.

DATCP has attempted to minimize adverse effects on all business, including small business. DATCP will make premises registration as simple as possible.

Dated this 7<sup>th</sup> day of February, 2005

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By   
Dr. Robert Ehlenfeldt, Administrator  
Division of Animal Health