

**PROPOSED ORDER
OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

The Wisconsin department of agriculture, trade and consumer protection proposes the following permanent rule *to repeal* second introductory note to ch. ATCP 17, 17.01 (2) to (7), 17.01 (15) and (16), 17.01 (26), 17.01 (29) Note and (31), 17.01 (34), Note, and (35), 17.02 (2) (c) Note, 17.02 (4) (e) and Note, 17.02 (5) (d), and 17.02 (6) (d); *to amend* ATCP 17.01 (10), 17.01 (20), 17.01 (23) and (24), 17.01 (29), 17.01 (33), 17.01 (36), 17.02 (1) (a), 17.02 (1) (c) 7. Note, 17.02 (3) (intro.) and (a) and (b), 17.02 (4) (f), 17.02 (4) (h) 9., 17.02 (5) (a), Note, (b) and (c), 17.02 (6) (a) and (c), 17.02 (7) and Note, and 17.04 (3); *to repeal and recreate* ATCP 17.01 (18), and 17.02 (2) (c); and *to create* ATCP 17.02 (3) (c), relating to livestock premises registration.

*Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection*

This rule implements the livestock premises registration program created under Wis. Stat. § 95.51. This program is intended to protect animal health and the security of the food chain. Among other things, it is anticipated that premises registration will facilitate more rapid responses to animal disease emergencies.

Under this rule, persons who keep livestock in this state must register every three years with the Department of Agriculture, Trade and Consumer Protection (“DATCP”). DATCP will assign a unique premises registration number. Registration information is confidential, and there is no fee to register.

Statutes Interpreted

Statutes interpreted: Wis. Stat. §§ 93.07(10), 95.51, 95.55, 95.60, 95.68, 95.69, and 95.71.

Statutory Authority

Statutory authority: Wis. Stat. §§ 93.07(1), 93.07(10), 95.51(3m) and (7), 95.55(6), 95.68(8), 95.69(8), 95.71(8), 95.72(5), 97.22(8), and 97.42(4).

Explanation of Statutory Authority

DATCP has broad general authority under § 93.07(1), Stats., to make and enforce rules to implement laws under its jurisdiction. Wis. Stat. § 95.51 creates a livestock premises registration program and directs DATCP to implement the program. The following statutes authorize DATCP to adopt rules related to a variety of animal health subjects:

- Wis. Stat. § 93.07(1) regarding general rule making authority pertaining to animal health and human health.
- Wis. Stat. § 93.07(10) regarding quarantines.
- Wis. Stat. §§ 95.51(3m) & (7) for the livestock premises registration program.

- Wis. Stat. § 95.55(6) regarding standards and registration of deer farms.
- Wis. Stat. § 95.68(8) regarding the operation of animal markets.
- Wis. Stat. § 95.69(8) regarding licensure of animal dealers.
- Wis. Stat. § 95.71(8) regarding licensure of animal truckers.
- Wis. Stat. § 95.72(5) for rendering processing plants and other entities which collect and process livestock carcasses.
- Wis. Stat. § 97.22(8) pertaining to the operations of dairy farms by milk producers.
- Wis. Stat. § 97.42(4) regarding slaughter establishments.

Related Statutes and Rules

None.

Plain Language Analysis

This rule specifies requirements for livestock premises registration. The livestock premises registration program was created after the discovery of bovine spongiform encephalopathy (Mad Cow Disease) in the United States in 2003. The registration program was developed to protect animal health and the security of the food chain. The program is authorized by Wis. Stat. § 95.51 and implemented under Wis. Admin. Code ch. ATCP 17.

The rule requires, with some exceptions, that any person who keeps livestock at a location in this state register that location. One of the exceptions is for an individual who is a member of a recognized religious group and who has sincerely held religious beliefs opposing livestock premises registration pursuant to Wis. Stat. § 95.51 and Wis. Admin. Code ch. ATCP 17.

The current rule provides that persons who keep livestock in this state must register every three years with the Department of Agriculture, Trade and Consumer Protection (“DATCP” or “department”). To register, a person generally provides information concerning types of livestock kept, their locations, and information as to whom to contact in case of an animal disease emergency. There is no fee to register. Registration information is confidential as specified by Wis. Stat. § 95.51(5) and Wis. Admin. Code § ATCP 17.03. The location of the livestock, or the premises, is assigned a unique identification code. The department has established a database for premises information.

The current rule allows a registered location to have a primary and up to three secondary locations listed under a single premises code. A secondary location is a location which shares or commingles animals with the primary location and is related to the primary location.

Secondary premises are not searchable in the database and will not, therefore, be included in a group of interest in the event of a disease outbreak. For example, in the event of a disease outbreak, a specified area around the infected premises will be searched in the database for additional premises which house susceptible livestock species, so that livestock owners can be notified, and their animals tested if necessary. At the present time, a secondary premises located in the specified area will not be included in that search if the primary premises under which it is registered is not listed in the specified area. Because of this oversight, the secondary location neither gets informed nor receives the benefits of testing.

This proposed rule will remedy this situation by requiring that secondary premises be registered separately with their own concurrent premises code, so that these secondary premises will not be ignored during future disease responses.

Additionally, this proposed rule does all of the following:

- Eliminates a note at the beginning of the rule relating to when certain entities must register their premises. This note was created when the rule was first drafted. Because these entities are now registered, the note is no longer needed.
- Repeals the following definitions: “animal dealer”, “animal dealer premises”, “animal market”, “animal market operator”, “animal trucker”, “animal trucker premises”, “dairy farm”, “description”, “milk producer”, “primary location”, “registered location”, and “secondary location”. These definitions are no longer needed because the provisions for which the definitions were created are being repealed.
- Repeals the definition of “deer farm” and creates a definition for “farm-raised deer” because the latter is used in this rule.
- Clarifies department contact information and updates informational links.
- Repeals the provision allowing a person to renew a premises registration at the same time at which the applicant applies for or renews another license held with the department. When premises registration was originally created, it was logical that license holders would apply for their premises registration at the same time they would apply for their license. The premises registration requirement has been in place long enough that all premises should now be registered. Allowing a person to renew a premises at the same time he or she renews a license is no longer reasonable because: 1) A person must have a premises registered before applying for a license with the department; 2) In most cases, the premises registration process occurs every three years while the licensing process occurs annually; and 3) The premises registration process is provided by a contracted entity separate and distinct from the department’s licensing process.

Summary of, and comparison with, existing or proposed federal statutes and regulations

The Wisconsin program is part of a national effort to create a comprehensive livestock identification system. At the national level, livestock premises registration is voluntary but supported by USDA. The national program runs concurrently with mandatory and voluntary livestock premises registration programs in numerous states. A comprehensive livestock identification system provides for rapid response capability which will be critically important in the event of a major animal disease emergency.

Comparison with Rules in Adjacent states

Similar to other Midwestern states, Wisconsin has established a free premises registration program where a unique premises registration code is assigned to each location.

Summary of Factual Data and Analytical Methodologies

As of yet, there is no federal law mandating livestock premises registration at the state level. A comprehensive livestock identification system provides for rapid response capability which will be critically important in the event of a major animal disease emergency.

Analysis and Supporting Documents Used to Determine Effects on Small Businesses or in Preparation for an Economic Impact Analysis

This rule implements the livestock premises registration program mandated by the Legislature in 2003 Wisconsin Act 229 under Wis. Stat. § 95.51. This rule will affect an estimated 60,000 Wisconsin businesses, including the following businesses, many of which can be considered as “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 with DATCP. There is no fee. Businesses may register either on-line or in writing. DATCP will facilitate 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 registration requirement every three years. The rule does not require businesses to hire any new professional services.

DATCP will make it easy for businesses to register and renew their registrations. DATCP and its contract agent will work with the livestock industry to register secondary premises which will have important benefits for the industry. DATCP will provide information and education related to the registration process.

Given that the premises registration is free and occurs at three-year intervals, this rule will not have a significant adverse economic impact on small business.

Effect on Small Business

Pursuant to Wis. Stat. § 95.51 and Wis. Admin. Code § ATCP 17.02, a person may not keep livestock at a location in this state unless that premises is registered. This requirement does not apply to a person who has submitted documentation to the department affirming that the individual has a sincerely held religious belief opposing registration of a livestock premises.

Small businesses affected include farms (beef cattle, dairy cattle, deer, fish, poultry, swine, etc.), animal markets, animal dealers, slaughter establishments, equine quarantine stations, rendering establishments, animal food processing establishments, grease processing establishments, and in some cases, animal truckers.

Currently, there are more than 60,000 primary premises registered in the state of Wisconsin. The number of secondary premises is unknown because, as previously mentioned, these secondary premises are listed as part of the primary premises account and cannot be separated.

Premises registration is free, and renewal occurs every three years. The next renewal date is July 31, 2019. Although registration is free, the only conceivable cost could be postage for those individuals who decide to mail the application materials to the department instead of calling or applying on-line.

Environmental Impact

This rule does not have an environmental impact.

Standards Incorporated by Reference

None.

DATCP Contact

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SECTION 1. The second introductory Note to ch. ATCP 17 is repealed.

SECTION 2. ATCP 17.01 (2) to (7) are repealed.

SECTION 3. ATCP 17.01 (10) is amended to read:

ATCP 17.01 (10) “Cervid” means a member of the family of animals that includes deer, elk, moose, caribou, reindeer, and the subfamily musk deer. “Cervid” includes all farm-raised deer.

SECTION 4. ATCP 17.01 (15) and (16) are repealed.

SECTION 5. ATCP 17.01 (18) is repealed and recreated to read:

ATCP 17.01 (18) “Farm-raised deer” has the meaning given in s. 95.001 (1) (ag), Stats., but does not include a cervid kept by an institution accredited by the association of zoos and aquariums.

SECTION 6. ATCP 17.01 (20) is amended to read:

ATCP 17.01 (20) “Fish farm” means a facility, at which a person hatches fish eggs or keeps live fish, which is required to be registered under s. ATCP ~~10.60(2)~~ 10.61.

SECTION 7. ATCP 17.01 (23) and (24) are amended to read:

ATCP 17.01 (23) “Livestock” means bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, captive game birds, South American camelids, ratites, and fish from a fish farm.

(24) “Livestock exhibition” means a state, county, or district fair, or ~~a recurring~~ an event at which livestock from different premises are exhibited to the public at a common location.

SECTION 8. ATCP 17.01 (26) is repealed.

SECTION 9. ATCP 17.01 (29) is amended to read:

ATCP 17.01 (29) “Premises” means ~~one or more locations~~ a location that a person registers under a single premises code.

SECTION 10. ATCP 17.01 (29) Note and (31) are repealed.

SECTION 11. ATCP 17.01 (33) is amended to read:

ATCP 17.01 (33) "Register" means to apply for and obtain from the department ~~an annual~~ a premises registration certificate under s. ATCP 17.02.

SECTION 12. ATCP 17.01 (34), Note, and (35) are repealed.

SECTION 13. ATCP 17.01 (36) is amended to read:

ATCP 17.01 (36) "Slaughter establishment" means a ~~place at which livestock are received for~~ facility to slaughter animals that is licensed and inspected by the department or USDA.

SECTION 14. ATCP 17.02 (1) (a) Note is amended to read:

ATCP 17.02 (1) (a) Note: Once a person completes an initial registration, subsequent registrations will be relatively simple. The department will send the registrant a renewal application form (or directions on how to renew ~~on-line~~) prior to the renewal deadline. The renewal transaction may be conducted by phone, mail, online, or by e-mail if an e-mail address has been provided. ~~The renewal application form will include pre-printed information obtained from the last previous registration. The registrant may renew the registration by returning the pre-printed form with corrections, if any.~~ There is no fee for an initial or renewal registration.

SECTION 15. ATCP 17.02 (1) (c) 7. Note is amended to read:

ATCP 17.02 (1) (c) 7. Note: A person may obtain a form from the department using the information below:

Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI ~~53702~~ 53708-8911
Phone: (608) 224-4872

SECTION 16. ATCP 17.02 (2) (c) and Note are repealed, and ATCP 17.02 (2) (c) is recreated to read:

ATCP 17.02 (2) (c) A person who keeps livestock at multiple locations shall register each of those locations as a separate premises so each location has its own premises code.

SECTION 17. ATCP 17.02 (3) (intro.) and (a) and (b) are amended to read:

ATCP 17.02 (3) (intro.) ~~Except as provided in sub. (2) (c), a~~ A person shall register in one of the following ways:

(a) By applying on-line at ~~http://www.datcp.state.wi.us~~ https://www.datcp.wi.gov/.

(b) By filing ~~a hard copy~~ an application with the department on a form provided by the department.

SECTION 18. ATCP 17.02 (3) (c) is created to read:

ATCP 17.03 (3) (c) By calling either the department or the department's contract agent.

SECTION 19. ATCP 17.02 (4) (e) and Note are repealed.

SECTION 20. ATCP 17.02 (4) (f) is amended to read:

ATCP 17.02 (4) (f) The name and telephone number of at least one individual who has knowledge of livestock and livestock carcass movements to and from ~~every location included in~~ the premises.

SECTION 21. ATCP 17.02 (4) (h) 9. is amended to read:

ATCP 17.02 (4) (h) 9. Fish from a fish farm.

SECTION 22. ATCP 17.02 (5) (a), Note, (b) and (c) are amended to read:

ATCP 17.02 (5) (a) ~~Except as provided in par. (d), the~~ The department shall grant or deny a registration application under sub. (3) within 30 days after the department receives a complete registration application.

Note: The department will normally grant or deny an on-line application at the time of the on-line application. If the department grants an on-line application, the department will ~~immediately~~ issue a printable electronic registration certificate to the applicant.

(b) The department may deny a registration application if the application is incorrect or incomplete, or if the ~~primary~~ location identified in the application is currently registered. The department shall state the reason for the denial.

(c) If the department denies an application because the ~~primary~~ location identified in the application is already registered, the department shall disclose to the applicant the premises code assigned to that registered ~~primary~~ location. The denial does not prevent the applicant from keeping livestock at the registered ~~primary~~ location or from registering other locations.

SECTION 23. ATCP 17.02 (5) (d) is repealed.

SECTION 24. ATCP 17.02 (6) (a) and (c) are amended to read:

ATCP 17.02 (6) (a) Whenever the department grants a registration application under sub. (3), the department shall ~~immediately~~ issue a registration certificate to the registrant. The registration certificate shall bear an expiration date that complies with sub. (1). The department shall issue the registration certificate in hard-copy or printable electronic form ~~depending on the method of registration.~~

(c) A registration certificate covers the ~~primary~~ location ~~and all secondary locations~~ identified in the approved registration application, ~~regardless of whether the certificate includes descriptions of all of those locations.~~

SECTION 25. ATCP 17.02 (6) (d) is repealed.

SECTION 26. ATCP 17.02 (7) and Note are amended to read:

ATCP 17.02 (7) Whenever the department grants a registration application under sub. (3), the department shall assign a unique code to the ~~primary~~ location identified in that application. The premises code shall be generated by the United States Department of Agriculture. A premises code may not be transferred to another location.

Note: A premises code, once assigned to a ~~primary~~ location, normally continues with that location even if the registrant changes. ~~If a registrant adds or removes a secondary location without changing the primary location, the premises code will remain the same. But if~~ If the ~~primary~~ premises location is subdivided among new registrants, the premises code assigned to that location will be retired, and a new premises code will be assigned to each new ~~primary~~ location created by the subdivision.

SECTION 27. ATCP 17.04 (3) is amended to read:

ATCP 17.04 (3) APPROVED REGISTRATION PROCESS. A contract agent that processes livestock premises registrations on behalf of the department, ~~whether in hard-copy or on-line~~, shall use a process and forms approved by the department. The hard-copy or on-line registration process shall be conducted under the name of the department, not the contract agent. The contract agent may not supplement or modify the registration process or forms, or charge any registration fee, without the department's written approval. The contract agent may not make solicitations or promotional communications to registrants in connection with the registration process, other than communications that the department requires for purposes of registration under this chapter.

SECTION 28. EFFECTIVE DATE AND INITIAL APPLICABILITY. (1) This rule takes effect on the first day of the month commencing after the date of publication.

(2) The treatment of this rule first applies to persons applying for an initial premises registration on or after the effective date of this rule (LRB INSERT DATE).

(3) The treatment of this rule first applies to persons renewing a premises registration on or after July 31, 2019.