

Clearinghouse Rule 22-081

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to amend* ATCP 10.80 (2) (a) and (b); and *to create* ATCP 10.80 (2) (d); *relating to* dog import rabies vaccination.

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

Statutes Interpreted: Wis. Stat. ss. 95.20 and 95.21 (2) (a)

Statutory Authority: Wis. Stat. s. 95.20

Explanation of Agency Authority

Section 95.20, Stats., authorizes the department to prohibit or regulate the importing of animals into this state or the movement of animals within this state if the department has reasonable grounds to believe that regulation or prohibition is necessary to prevent the introduction or spread of a disease in this state that threatens the health of animals or of humans.

Related Statutes and Rules

Section 95.21 (2) (a), Stats., requires rabies vaccination of dogs as follows: Except as provided in s. 174.054, Stats., or sub. (9) (d), the owner of a dog shall have the dog vaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 89.05 (2) (d), Stats., at no later than 5 months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into this state after the dog has reached 5 months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought into the state unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 89.05 (2) (d), Stats., before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within 3 years after the previous vaccination.

Plain Language Analysis

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The

department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

The proposed rule is specific to Wisconsin statutes. The Centers for Disease Control and Prevention (CDC) requires that all dogs entering the U.S. that are 12 weeks and older be currently vaccinated against rabies.

Comparison with Rules in Adjacent States

The proposed rule is specific to Wisconsin statutes. Rabies vaccination requirements for dog imports into adjacent states are compared below. All adjacent states require rabies vaccination prior to import for dogs over a certain age (16 weeks, 4 months, 12 weeks, 3 months), and some include exceptions for particular circumstances.

Illinois

All dogs 16 weeks of age and older are required to be vaccinated against rabies. The date of vaccination and manufacturer information must be included on the Certificate of Veterinary Inspection (CVI). These regulations do not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or testing. Ill. Admin. Code tit. 8, s. 25.47.

Iowa

All dogs and cats entering the state must be accompanied by a CVI indicating freedom from disease or exposure to infectious or contagious disease. Dog and cats originating from a rabies-quarantined area will not be admitted. All dogs over four (4) months of age must have a current rabies vaccination with a United States Department of Agriculture (USDA) approved rabies vaccine. Iowa Admin. Code s. 21.65.10.

Michigan

Dogs must have an official interstate certificate of veterinary inspection filled out by a USDA accredited veterinarian in the animal's state of origin. Dogs 12 weeks of age or older must be currently vaccinated against rabies. Dogs less than 12 weeks of age that are from a rabies quarantined area are not allowed entry. The disease vaccinated against (i.e., rabies), date of vaccination, and (if possible) date of expiration must be listed on the CVI. MCL s. 287.335a.

Minnesota

Every dog, cat, or ferret three (3) months of age or older travelling into Minnesota must be currently vaccinated for rabies and have a valid rabies vaccination certificate. The rabies vaccine may only be administered by a licensed veterinarian. The Minnesota Board of Animal Health may exempt animals from this requirement based on the written recommendation of a licensed veterinarian who has examined the animal and determined that vaccination is contraindicated due to a medical condition or for animals entering a licensed kennel that meets certain conditions. Minnesota Rules, part 1721.0500.

Summary of Factual Data and Analytical Methodologies

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months

of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a), Stats., by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

Entities impacted by this rule include veterinarians, dog owners, dog sellers, dog facility operators, and people who import dogs into the State. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Department's Regulatory Review Coordinator may be contacted by:

Email at Bradford.Steine1@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

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Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before January 24, 2023 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

Angela Fisher
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P.O. Box 8911
Madison, WI 53708-8911

By email to: Angela.Fisher1@wisconsin.gov

RULE TEXT

1 SECTION 1. ATCP 10.80 (2) (a) and (b) are amended to read:

2 ATCP 10.80 (2) (a) Except as provided in par. (b), no person may import a ~~dog or~~ domestic cat into this
3 state unless the ~~dog or~~ domestic cat has a current rabies vaccination.

4 (b) An imported ~~dog or~~ domestic cat that is under 5 months of age may be imported without a current rabies
5 vaccination administered by a licensed veterinarian, provided that the owner has the ~~dog or~~ cat vaccinated
6 by a licensed veterinarian by the date on which the ~~dog or~~ cat reaches 5 months of age.

7 SECTION 2. ATCP 10.80 (2) (d) is created to read:

8 ATCP 10.80 (2) (d) No person may import a dog into this state unless the dog meets the requirements under
9 s. 95.21 (2), Stats.

10 SECTION 3. EFFECTIVE DATE. This rule is effective on the first day of the month commencing after the date
11 of publication, as provided under Wis. Stat. s. 227.22 (2) (intro.).

(END OF RULE TEXT)

Dated this ____ day of November, 2022

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary