

Report From Agency

DATCP Docket No. 09-R-19
Rules Clearinghouse No. 10-100

Proposed Final Draft
December 17, 2010

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

- 2 The Wisconsin department of agriculture, trade and consumer protection proposes the following
3 order *to create* ch. ATCP 16, *relating to* the licensing and regulation of dog dealers, dog
4 breeders, dog breeding facilities, animal control facilities and animal shelters.
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Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection

This rule implements s. 173.41, Stats., created by 2009 Wis. Act 90. Act 90 requires the Department of Agriculture, Trade and Consumer Protection (“DATCP”) to license and regulate persons who do any of the following:

- *Operate an “animal control facility.”* Under this rule, an “animal control facility” means a facility in this state, for the care of animals, which is operated under a contract with a county, town or municipality under s. 173.15(1), Stats.
- *Operate an “animal shelter.”* Under this rule, an “animal shelter” means a facility in this state that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least 25 dogs in a license year, and that is operated by a humane society, animal welfare society, animal rescue group, or other nonprofit group.
- *Operate as a “dog breeder.”* Under this rule, a “dog breeder” means a person who in any license year sells at least 25 dogs, from more than 3 litters, which that person has bred and raised in this state.
- *Operate a “dog breeding facility.”* Under this rule, a “dog breeding facility” means a place in this state where dogs are bred and raised and from which at least 25 dogs from more than 3 litters are sold in a license year.

- *Operate as a “dog dealer.”* Under this rule, a “dog dealer” means any of the following persons, other than an “out-of-state dog dealer:”
 - A person who in any license year sells in this state at least 25 dogs that the person owns but has not bred and raised.
 - A person, other than an auctioneer or auction company registered under ch. 480, Stats., who in any license year brokers or arranges the sale in this state of at least 25 dogs that are under that person’s custody or control (but that the person does not own and has not bred or raised).
 - An auctioneer or auction company registered under ch. 480, Stats., which operates one or more auctions in this state in which a combined total of 50 or more dogs are sold or offered for sale in any license year.

- *Operate in this state as an “out-of-state dog dealer.”* Under this rule, an “out-of-state dog dealer” means a non-resident person who in any license year imports at least 25 dogs for sale in this state, regardless of whether the dogs were bred or raised by that person.

This rule spells out standards required of license holders, including standards related to the care, transportation and sale of dogs.

Statutes Interpreted

Statutes Interpreted: 93.06(1g), (7) and (8), 93.21(5), 95.20, 95.23(1), 95.45(4)(c) and 173.41, Stats.

Statutory Authority

Statutory Authority: 93.07(1), 93.21(5), 95.20, 95.45(4)(c) and 173.41(3)(c) and (14), Stats.

Explanation of Statutory Authority

DATCP has broad general authority, under s. 93.07(1), Stats., to adopt rules interpreting laws under its jurisdiction. Under s. 173.41(14), Stats., DATCP is *required* to adopt rules implementing s. 173.41, Stats. DATCP also has relevant rulemaking authority under other statutes. DATCP has developed this rule in consultation with an advisory council, as required under s. 173.41(14), Stats.

Related Rules or Statutes

Under s. 173.27, Stats., and ch. ATCP 15, DATCP has adopted standards for the training and certification of county and local humane officers. Under s. 93.07(11), DATCP provides veterinary consultation and other assistance to county and local humane officers. Under ch. ATCP 10, DATCP has adopted general rules related to animal health, animal imports, animal movement and disease control.

Plain Language Analysis

License Required

Under this rule, a person who does any of the following must hold an annual license from DATCP, unless the person qualifies for a license exemption (see below):

- Operates an “animal control facility.”
- Operates an “animal shelter.”
- Operates as a “dog breeder.”
- Operates a “dog breeding facility.”
- Operates as a “dog dealer.”
- Operates in this state as an “out-of-state dog dealer.”

An annual license expires on September 30. A license holder must display a copy of the license at each animal control facility, animal shelter or dog breeding facility (if any) operated by the license holder. A license is not transferable between persons or facilities.

Persons Exempt from Licensing

The following persons are exempt from licensing under this rule, to the extent that they are engaged only in the following activities:

- *Veterinarian.* A veterinarian who only keeps dogs for the purpose of providing care or treatment in the normal course of veterinary practice, within the scope of the veterinarian’s license under ch. 453, Stats.
- *Person conducting one-time sale of his or her dogs.* A person who sells his or her dogs at a one-time liquidation sale if all of the following apply:
 - The person notifies DATCP of the proposed liquidation sale at least 30 days prior to the start of the sale. The notice must identify the number of dogs that the person will offer for sale, the location at which the person keeps those dogs, and the starting date of the sale.
 - The person, at the start of the liquidation sale and throughout the sale, offers to sell all of the dogs that the person owns and keeps at the identified location.
 - The person owns and keeps, at the identified location, no more than 30 dogs at the start of the liquidation sale or at any time during the liquidation sale.
 - The person does not move any other dogs to the identified location during the liquidation sale.
 - The person does not permit other persons to sell their dogs from the identified location during the liquidation sale.
 - The person was not required to be licensed during the preceding license year and did not conduct a liquidation sale during the preceding license year.

- *Operator of temporary dog market.* The operator of a temporary dog market if the operator does all of the following:
 - Gives DATCP written notice of the temporary dog market, at least 10 days prior to the start of the market. The notice must include the location of the market, the beginning and ending dates of the market, and the approximate number of sellers who may bring dogs to the market.
 - Provides adequate facilities and takes reasonable steps to ensure humane treatment of all dogs kept at the market.
 - Arranges for a Wisconsin certified veterinarian to examine all dogs kept at the market on each day of market operations, if the market operates for 2 or more consecutive days.
 - Obtains certain information from each person who brings dogs to the market, including the person's name and address; the person's dog seller license number (if any); the number of dogs that the person brings to the market; a description of each dog; the source of each dog (if the person has not owned the dog since its birth); documentation of rabies vaccination (if required); and documentation of legal import (if the dog was imported to this state). The market operator must keep the information for at least 5 years, and must make it available to DATCP for inspection and copying upon request.
 - Allows DATCP to inspect the temporary dog market during market hours.

Licensed Activities and Facilities

Some persons may be engaged in more than one activity for which a license is required, or may operate more than one dog facility for which a license required. Under this rule, such a person may obtain a single license document that covers all of those activities and facilities. However, the license document must identify each type of licensed activity and the location at which the license holder keeps dogs pursuant to the license. License fees are based on the number of dogs sold by the license holder (except that there is a flat fee for an "animal control facility" or "animal shelter").

Applying for a License

A person must apply for a license on a form provided by DATCP. The form must include all of the following:

- The applicant's legal name and any business names under which the applicant engages in licensed activities.
- The applicant's principal business address.
- The address of each location at which the applicant may keep dogs pursuant to the license. If a location is an "animal control facility," an "animal shelter" or a "dog breeding facility," the application must indicate that fact.

- A statement indicating whether, in connection with the applicant’s licensed operation, the applicant may consign any dogs to any individual for custody at that individual’s home (the application need *not* include the individual’s home address).
- An identification of each activity for which the applicant seeks a license.
- The total number of dogs that the applicant sold during the preceding license year or, if the applicant did not sell any dogs during the preceding license year, the total number of dogs that the applicant expects to sell during the license year for which application is made. The applicant must report sales from all locations, including home custody locations, but need not report sales from licensed “animal control facilities” or “animal shelters.” If any sales are made from a “dog breeding facility,” the application must indicate the number of sales made from that facility.
- All license fees and surcharges required under this rule (see below).
- If the applicant applies to be licensed as an “out-of-state dog dealer,” copies of all of the following:
 - Any dog seller’s license that the person is required to hold in the state from which that person operates in this state as an “out-of-state dog dealer.”
 - Any dog seller’s license that the person is required to hold under federal law.

License Fees and Surcharges

An annual license application must include the following nonrefundable fees and surcharges, as applicable:

- A license fee of \$125 for each “animal control facility” or “animal shelter.”
- The following license fee based on the number of dogs that the applicant sold during the preceding license year from any location other than from an “animal control facility” or “animal shelter,” except that this fee does not apply to an “out-of-state dog dealer:”
 - \$250 if the number is at least 25 but less than 50.
 - \$500 if the number is at least 50 but less than 100.
 - \$750 if the number is at least 100 but less than 250.
 - \$1,000 if the number is at least 250.
- A fee that is 150 percent of the above fee if the applicant is an “out-of-state dog dealer.”
- A late renewal surcharge equal to 20% of all license fees required above if the applicant seeks to renew a license after that license has expired.

- A surcharge equal to the total of all license fees required above if DATCP finds that the applicant operated without a license in the prior license year, or falsified the prior year's license application to avoid fee payments.
- Any unpaid reinspection fee properly charged under this rule (see below).

Timely Action on License Application

DATCP must grant or deny a license application within 30 business days after it receives a complete license application except that, if the applicant wishes to keep dogs at a location not previously licensed, DATCP must grant or deny the license within 30 days after it inspects that location (DATCP must complete the inspection within 60 days after it receives a complete license application).

Issuing or Withdrawing a License

DATCP may deny, suspend or revoke a license if the applicant or license holder fails to comply with applicable licensing requirements; is not fit, qualified or equipped to conduct the activity for which the license is required; has violated or failed to obey a relevant law, order, or regulation; or has misrepresented or failed to disclose any material fact in a license application. DATCP may issue a license on a conditional basis, contingent on the license holder's compliance with specified conditions.

DATCP may summarily suspend a license, without prior notice or hearing, if DATCP finds any of the following:

- That the license holder has violated this rule, and that the violation imminently threatens the health, safety, or welfare of any dog.
- That the license holder has committed an act of animal cruelty in violation of ch. 951, Stats.

Whenever DATCP denies, suspends or revokes a license, DATCP must give written notice specifying its reasons and notifying the applicant or license holder of the right to request a hearing on DATCP's action. DATCP may reinstate a license if circumstances warrant reinstatement.

Inspecting Licensed Operations

DATCP may at any time, during reasonable hours, inspect any licensed location at which a person engages in any activity for which a license is required under this rule. If necessary to verify a license holder's compliance with this rule, DATCP may inspect during reasonable hours any location at which another person keeps dogs for the license holder.

Before DATCP licenses an applicant to keep dogs at a location not previously licensed, DATCP must inspect that location. DATCP must also inspect each licensed location at least once in every 2 license years. The inspection must examine the operator's compliance with applicable

requirements under this rule, including applicable requirements related to recordkeeping, dog health and standards of care.

Whenever DATCP inspects a location under this rule, DATCP must give the operator of that location a copy of its inspection report. An operator of a licensed location must post a copy of the most recent inspection report for that licensed location in a prominent place at the licensed location, so that visitors to that location can easily notice and read it.

DATCP may require a license holder to pay a reinspection fee of \$150 for each reinspection (other than a routine or regularly scheduled inspection) that DATCP makes to verify that rule violations noted in a previous inspection have been corrected. The reinspection fee is due upon written demand from DATCP, following the reinspection. An applicant for an annual license must include, in the license application, any unpaid reinspection fees.

Records Kept by License Holders

A license holder must keep all of the following records under this rule:

- *Location records.* The address of every location at which the license holder keeps dogs pursuant to the license, and the name of the individual who is responsible for administering that location. If the license holder consigns a dog to an individual for home custody, the license holder must record the name and address of that individual.
- *Dog records.* The following records related to each dog that is under the license holder's custody or control at any time during the license year, including any dog that the license holder consigns to an individual for home custody:
 - A description of the dog including the dog's breed or type, sex, date of birth or approximate age, color, and distinctive markings.
 - The location at which the dog is kept.
 - Any United States Department of Agriculture (USDA) official identification assigned to the dog and any other identification tag, tattoo or microchip information.
 - A statement that the dog was born under the license holder's custody or control, if that is the case.
 - All of the following information if the dog was not born under the license holder's custody or control:
 - The date on which the license holder acquired custody or control over the dog.
 - The identity of the person from whom the license holder acquired custody or control of the dog. The record shall include the person's name, address, and USDA animal care facility license or registration number if any.

- All of the following information if the dog is no longer under the license holder's custody or control:
 - The date on which the dog left the license holder's custody or control.
 - The disposition of the dog.
 - The identity of the person, if any, to whom the license holder transferred custody or control of the dog.
- A copy of any certificate of veterinary inspection that accompanied the dog when it entered or left the license holder's custody or control.
- Health records related to the dog, including vaccination, observation and treatment records (regardless of whether the health care was administered by the license holder or by a veterinarian).
- Breed registration records if any.
- *Dog behavior and socialization plan.* A copy of the license holder's written dog behavior and socialization plan (see plan requirement below).

The license holder must keep the above records in written or readily readable electronic form. The license holder must keep the records at the license holder's principal place of business, except that records related to a licensed animal control facility or animal shelter must be kept at that facility. The license holder must keep the records for at least 5 years after they are made, and must make them available to DATCP for inspection and copying upon request.

Dog Sales; Certificate of Veterinary Inspection

Under this rule, whenever a license holder sells a dog in this state, the dog must be accompanied by a certificate of veterinary inspection. The certificate must be prepared and signed by a Wisconsin certified veterinarian, except that a certificate accompanying a dog imported into this state may be issued by a veterinarian who is accredited by USDA and the state of origin.

A certificate of veterinary inspection must be issued on a form provided by DATCP, USDA, or the state in which the certificate is issued. A certificate issued in this state must be issued on a form provided by DATCP. The certificate must include all of the following:

- The name and address of the person selling the dog.
- The breed, sex and age of the dog.
- Whether the dog is spayed, neutered or sexually intact.
- The dog's vaccination record. The vaccination record must identify each type of vaccination that the dog has received. For each type of vaccination, the record must include all of the following:

- The name of the vaccine manufacturer.
 - The vaccine serial number and lot number.
 - The date on which the vaccine was administered.
 - The name of the person who administered the vaccine.
- Import information required under current rules if the certificate accompanies a dog imported into this state.
 - If the dog is sold at public auction and is not spayed or neutered, documentation showing that the dog has tested negative on a brucellosis test conducted within 30 days prior to the auction sale.
 - The following statement, or a substantially similar statement, that is based on at least a brief personal examination by the veterinarian making the statement:

“I certify, as a veterinarian, that I have inspected the dogs identified on this certificate and that the dogs are not showing any sign of infectious, contagious or communicable disease, except as otherwise noted on this certificate. Vaccinations and test results are as indicated on this certificate. This certificate is not a warranty.”
 - The veterinarian’s signature and the date of signature.

The veterinarian must sign the certificate within 10 days after the veterinarian completes the examination on which the certificate is based. The certificate is valid for 30 days after the date of examination. Copies must be provided to the following persons:

- The person buying the dog.
- The person selling the dog.
- The veterinarian who issues the certificate.

Age at which Dogs May be Sold

A license holder may not, in connection with the sale of a dog, transfer that dog to the physical custody of the buyer unless one of the following applies:

- The dog is at least 7 weeks old.
- The dog is accompanied by its dam.
- DATCP approves the transfer in writing.

Dog Care; General

A license holder and every person who keeps dogs for a license holder must comply with all of the following standards of care:

- *Food and water:*
 - Each dog must be fed at least once a day, unless another schedule is needed to maintain or restore the dog's health.
 - The size and nutritional content of a dog's daily food ration must be based on dog's age, condition, size and weight.
 - Dog food must be wholesome, uncontaminated and palatable. Dog food must be stored in a manner that keeps it wholesome, uncontaminated and palatable. Food storage containers must be clean.
 - An adequate quantity of fresh water must be made available to each dog at all times, or as often each day as is necessary to keep the dog well-hydrated at all times. Water must be fluid, potable and uncontaminated.
 - Food and water must be provided in durable containers, except that food may be provided in disposable containers if discarded after one use.
 - Water containers, non-disposable food containers and non-disposable utensils must be cleaned and sanitized as often as necessary to keep them free of accumulated dirt, debris and disease hazards.

- *Animal health and veterinary care:*
 - Dogs must be handled as carefully as practicable, and in a humane manner that does not cause physical harm or unnecessary injury.
 - A caretaker, or an individual acting under a caretaker's oral or written instructions, must perform daily body, mobility and behavior checks on each dog.
 - A dog with a communicable disease must be separated from other susceptible animals to minimize the risk of disease transmission to those animals.
 - Dogs must be groomed as necessary to prevent abnormal matted hair and overgrown nails, and to allow freedom of movement and normal bodily functions.
 - A veterinarian must examine each dog as often as necessary to ensure adequate health care.
 - Sick, diseased or injured dogs must receive timely veterinary care or must be euthanized in a legal and humane manner.
 - DATCP may, by written notice, require a license holder to submit a dog for veterinary examination if a DATCP inspection indicates that the dog is ill, injured or neglected.

- *Housing and transportation:* Dogs must be kept in facilities that comply with this rule (see below), and transported in compliance with this rule (see below). The facility standards do not apply to a facility used only to breed, raise and sell dogs for purposes of scientific research, provided that all of the following apply:
 - The facility was in existence, and was used only for that purpose, on the effective date of this rule.
 - The license holder does not materially expand or remodel the facility.
 - The dogs are sold from the same facility where they are bred and raised.
 - The dogs are sold only to animal care facilities licensed or registered by USDA and are not resold to any other person.

- Dog enclosures in the facility comply with USDA rules under 9 CFR subchapter A (animal welfare).
- *Exercise:* A dog must have reasonable daily exercise, based on the dog's breed, size, age and health condition. Dogs must have daily access to a run or exercise area where they can achieve a running stride. Repetitive unsupervised physical activity (such as unsupervised placement on a moving treadmill) that restricts a dog's ability to engage in other activity must be avoided except for good cause.
- *Dog grouping and separation:*
 - Dogs must be separated, as necessary, into compatible groups.
 - Females in season (estrus) may not be kept in the same un-separated enclosure with sexually intact males, except for breeding purposes.
 - Dogs exhibiting potentially harmful aggressive behavior must be separated from other dogs.
 - Puppies under 4 months old may not be kept in the same un-separated enclosure with adult dogs other than their dam or foster dam, unless under direct supervision.
- *Behavior and socialization:*
 - All dogs must have daily, full-body physical contact with other compatible dogs, except where such contact must be avoided for good cause.
 - All dogs must have daily positive human contact, not limited to feeding time.
 - All dogs must have safe play objects or other effective forms of inanimate enrichment in their primary enclosures, except where such objects or enrichment must be denied for good cause.
 - Dogs may not be deprived of contact, activity or enrichment for extended periods, except for good cause.
 - A license holder must have a written plan for meeting these requirements, and must instruct employees and agents on the terms of that plan.

Dogs Kept Indoors

The following requirements apply to an indoor facility at which a person keeps dogs pursuant to a license under this rule:

- ***Primary enclosure; general requirements.*** A *primary enclosure* is an enclosed space where a dog spends most of its time. A *primary enclosure*, other than a whelping enclosure or nursery enclosure, must qualify in one of the following general categories:
 - *Primary enclosure for one or more dogs that get at least 30 minutes of exercise each day.* To qualify in this category, a primary enclosure must comply with all of the following requirements:

- A dog kept in the primary enclosure must spend at least 120 minutes per day in an indoor or outdoor run or exercise area. The run or exercise area must be large enough for the dog's size and temperament (considering the number of dogs that may use the run or exercise area at any given time), and must be large enough for the dog to achieve a running stride.
- **Whelping enclosure.** A *whelping enclosure* is a primary enclosure for a single whelping dam and her puppies. A *whelping enclosure* must comply with all of the following requirements, rather than the general requirements for primary enclosures:
 - It must have a solid floor where the puppies are kept.
 - It must be of an appropriate type for the breed.
 - It must be tall enough for the dam to stand normally and comfortably,
 - It must be large enough for the dam to lie down in a stretched out position, so that all puppies can simultaneously nurse.
 - It must be large enough for the number and temperament of the puppies.
 - It must include an area where the dam can be physically inaccessible to the puppies. A solid floor is not required in that area.
- **Nursery enclosure.** A *nursery enclosure* is a primary enclosure for puppies between the age of weaning and the age of 4 months. A nursery enclosure must comply with the following requirements, rather than the general requirements for primary enclosures:
 - It must be large enough to allow all of the puppies to turn around, stand up, lie down, and exercise normal postural movements.
 - It must be large enough to encourage socialization and exercise.
- **Temporary enclosure for one dog.** A dog may be kept for up to 12 hours a day in a *temporary enclosure* that does not meet primary enclosure standards if all of the following apply:
 - Only one dog is kept in the temporary enclosure at any time.
 - The temporary enclosure is long enough to accommodate the entire length of the dog's head and body, measured from the tip of the dog's nose to the base of the dog's tail.
 - The temporary enclosure is tall enough for the dog to stand normally and comfortably, and large enough for the dog to turn around and lie down.
- **Floors and interior surfaces of indoor primary enclosures.** The following standards apply to all indoor primary enclosures:
 - Dirt floors are prohibited.
 - A floor, other than a floor in a whelping enclosure, may be constructed of metal wire mesh. Metal wire mesh floors must comply with all of the following requirements:

- The wire must be coated with an acceptable material to prevent injury to the dogs' feet.
 - The wire must be of an adequate gauge to prevent sagging under the weight of the dog or dogs kept in the enclosure, and to prevent injury to the dogs' feet.
- Any openings must be small enough to prevent the feet of the smallest dog kept in the enclosure from passing through or becoming entangled.
- Floors and other interior surfaces must be constructed and maintained to keep dogs clean, dry and safe from injury. Surfaces must be regularly cleaned and sanitized.
- ***Stacking primary enclosures.*** No indoor primary enclosure may be stacked on top of any other indoor primary enclosure unless the stacking arrangement complies with all of the following:
 - The floor of the top enclosure must be no higher than 52 inches from the floor of the room in which the enclosures are stacked.
 - The stacking arrangement must provide for safe dog handling, adequate ventilation and temperature control, easy cleaning and sanitization, and easy inspection of all stacked enclosures.
 - Each stacked enclosure must have a fully ventilated front side and a solid floor that can be easily cleaned and sanitized.
 - The stacked enclosures must be stable when filled to maximum capacity with dogs.
 - No dog in any of the stacked enclosures may be exposed to any excreta, urine, dirt or debris falling from a higher enclosure.
- ***Lighting, temperature and ventilation.*** An indoor facility in which primary enclosures are located must meet all of the following requirements:
 - It must have well-distributed natural or artificial light that is adequate for proper care, maintenance and inspection of the facility and of all dogs kept in the facility. All areas in which dogs are kept must have a diurnal lighting cycle.
 - It must have adequate heating and cooling facilities, and must be heated and cooled as necessary to keep temperatures within appropriate limits, based on the dog breeds kept at the facility and the ability of those breeds to acclimate to temperature variation. Dogs must be protected from heat, cold and humidity that may be injurious to their health.
 - It must be adequately ventilated with fresh or filtered air to maintain the health and comfort of all dogs and to minimize odors, drafts, ammonia levels and moisture condensation. The facility must provide an exchange of air between indoor areas where dogs are kept and the outdoors.
- ***Cleaning and sanitization.***
 - Excreta must be removed from primary enclosures and other dog holding areas at least daily, and more often as necessary for the health and comfort of all dogs.

- Primary enclosures and other dog holding areas must be cleaned and sanitized as often as necessary to keep them free of accumulated dirt, debris and disease hazards.
- A primary enclosure must be cleaned and sanitized before any new dog is placed in the enclosure.
- Dogs must be removed from primary enclosures and other dog holding areas before those enclosures or areas are cleaned and sanitized. Dogs may not be returned to a cleaned or sanitized enclosure or area until the enclosure or area is dry.
- Dogs must have clean, dry and breed-appropriate bedding, or must have a solid resting place that is appropriate for the dog's breed, age, health and physical condition, except when alternative special arrangements are necessary for a dog's health and safety.

Dogs Kept Outdoors

The following requirements apply to an outdoor facility at which a person keeps dogs pursuant to a license under this rule:

- *Dogs must be capable of staying outdoors.* A dog kept in an outdoor primary enclosure must be all of the following:
 - Readily able to tolerate the outdoor temperatures and conditions to which the dog may be exposed in that enclosure, considering the dog's breed, age, health and physical condition.
 - Acclimated to the outdoor temperatures and temperature variations that may occur in that enclosure.
- *Outdoor primary enclosure; minimum area.* The area of an outdoor primary enclosure (not counting the area of any *dog shelter* in the primary enclosure) must be at least equal to the sum of the following, where each dog's length is measured from the tip of the dog's nose to the base of the dog's tail:
 - For the largest dog in the primary enclosure, the following area:
 - 4.5 sq. ft. for a dog up to 10 inches long.
 - 8 sq. ft. for a dog 11 to 16 inches long.
 - 12 sq. ft. for a dog 17 to 22 inches long.
 - 18 sq. ft. for a dog 23 to 26 inches long.
 - 24 sq. ft. for a dog 26 to 30 inches long.
 - 30 sq. ft. for a dog more than 30 inches long.
 - For each additional dog in the primary enclosure, the following area:
 - 3.375 sq. ft. for a dog up to 10 inches long.
 - 6 sq. ft. for a dog 11 to 16 inches long.
 - 9 sq. ft. for a dog 17 to 22 inches long.
 - 13.5 sq. ft. for a dog 23 to 26 inches long.
 - 18 sq. ft. for a dog 26 to 30 inches long.

- 22.5 sq. ft. for a dog more than 30 inches long.
- *Outdoor primary enclosure; construction.* An outdoor primary enclosure must be constructed and maintained to prevent dogs from escaping from the enclosure. If any portion of the primary enclosure is covered by a roof or overhead screen, the roof or screen must be at least 12 inches higher than the standing height of the tallest dog in the primary enclosure.
- *Shelter, shade and windbreak.* An outdoor primary enclosure must include all of the following:
 - A *dog shelter* (see below) that is accessible by all dogs kept in the primary enclosure.
 - A shaded area, other than the dog shelter, which is adequate to shade all dogs in the primary enclosure from direct sunlight during any sunlight hours in which heat stress may occur.
 - A windbreak, other than the dog shelter, which is adequate to shelter all dogs in the primary enclosure from wind.
- *Dog shelter.* A dog shelter, provided for dogs kept in an outdoor primary enclosure, must meet all of the following requirements:
 - It must be made of a durable material, and must have 4 sides, a roof, and a flat solid floor.
 - It must be big enough to do all of the following:
 - Accommodate all dogs kept in the primary enclosure without crowding.
 - Allow for the tallest dog to stand normally and comfortably.
 - Allow all dogs to turn around and lie down.
 - It must be constructed and maintained to do all of the following:
 - Prevent injury to dogs that use it.
 - Allow all dogs using it to retain or dissipate enough body heat for health and comfort.
 - Allow all dogs using it to remain dry and clean.
 - Give all dogs using it reasonable protection from predators.
- *Outdoor tethering; general.* A dog may not be tethered outdoors unless all of the following apply.
 - The dog is of a breed that can tolerate tethering.
 - The dog can readily tolerate tethering, based on its age, health and physical condition.
 - The tethered dog can easily enter and lie down in a dog shelter that complies with this rule (see above).
 - The tethered dog is not a pregnant or nursing female.
 - The tether cannot become entangled with any object.
 - The tether has an anchor swivel.
 - The tether is at least 6 feet long and of sufficient length for the size of the dog.

- The tether is attached to the dog by means of a non-tightening collar or harness of sufficient size for the dog.
- *Tethering prohibited at animal control facilities and animal shelters.* A dog may not be tethered outdoors at an animal control facility or animal shelter, except that a dog may be occasionally tethered for up to 4 hours in a day according to general tethering standards in this rule (see above). A responsible person must be on the premises during tethering to ensure that tethering standards are met.
- *Access to run or exercise area.* Each dog kept in an outdoor primary enclosure must have access, for at least 30 minutes each day, to an indoor or outdoor run or exercise area that meets all of the following requirements:
 - It must be large enough for the dog's size and temperament (considering the number of dogs that may use the run or exercise area at any given time), and large enough so that the dog can achieve a running stride.
 - It must include a shaded area large enough to shade all dogs using the run or exercise area. However, the run or exercise area need not include a shelter unless the run or exercise area also serves as a primary enclosure.
- *Outdoor facility maintenance.* Outdoor facilities must be maintained to protect the health and safety of dogs kept in those facilities:
 - Excreta must be removed from outdoor primary enclosures at least daily.
 - Pests and parasites must be controlled as necessary to maintain dog health and comfort.
 - Dogs must have clean, dry and breed-appropriate bedding, or must have a solid resting place that is appropriate for the dog's breed, age, health and physical condition, except when alternative special arrangements are necessary for a dog's health and safety.

Transporting Dogs

A license holder must comply with the following standards related to the transportation of dogs:

- *Portable enclosures.* A portable enclosure used to transport one or more dogs (including any enclosure that is placed on, or forms part of, a transport vehicle) must meet all of the following requirements:
 - It must be constructed of water-resistant and cleanable material.
 - It must be designed to keep all dogs within the enclosure clean and dry.
 - It must be designed to protect the health and safety of all dogs in the enclosure.
 - It must have ventilation openings to ensure the comfort and health of all dogs in the enclosure.

- It must be securely closed when in use.
- It must be cleaned and sanitized between occupancy by different dogs, and more often as necessary to keep it in a clean condition.
- When on a transport vehicle, it must be all of the following:
 - Positioned so that each dog in the enclosure has access to sufficient air for normal breathing.
 - Positioned so that the opening through which dogs enter and exit the enclosure is accessible at all times for emergency removal of dogs from the enclosure.
 - Positioned so that all dogs in the enclosure are protected from the elements.
 - Positioned or protected so that no dog in the enclosure is exposed to excreta falling from above.
 - Secured as necessary to prevent reasonably foreseeable movement that may injure dogs.
- *Care of dogs during transport.* The following standards apply to dogs that are being transported:
 - Each dog must at all times be protected from hypothermia and hyperthermia. Transportation vehicles must be heated or cooled, if necessary, to prevent hypothermia or hyperthermia.
 - Each dog must have sufficient space to turn, stand, and lie down (this requirement does not apply to dogs that are transported for 5 miles or less as part of a dog trial).
 - Each dog must be provided with food and water, according to standards in this rule.
 - Dogs must be separated if incompatible (see grouping and separation standards above).
 - Each dog shall be visually inspected every 4 hours.
 - Each dog must be removed from the transport vehicle at least once every 12 hours, and be allowed to urinate, defecate and exercise, unless the vehicle is equipped to meet those needs.
 - Each dog must be removed from the transport vehicle in a timely fashion when the vehicle reaches its destination.
- *Transport vehicles.* The following standards apply to a transport vehicle that is used to transport dogs:
 - The vehicle must provide fresh or filtered air, without injurious drafts, to all dogs that are transported in the vehicle.
 - The dog cargo space must be constructed and maintained to minimize the ingress of exhaust from the vehicle's engine.

Prohibited Conduct

No license holder may do any of the following, either directly or through an employee or agent:

- Prevent or interfere with a DATCP inspection under this rule, or assault an inspector.
- Refuse or fail, without just cause, to produce evidence or records requested by DATCP.
- Misrepresent a dog's breed or pedigree, or move a diseased dog in violation of current law.
- Knowingly accept dogs from a person who is not properly licensed to supply those dogs (unless the person accepts the dogs to protect them, and promptly reports the acceptance to DATCP).

Variances

In response to a written request, DATCP may grant a written variance from an animal care standard under this rule if DATCP finds that the variance is reasonable and necessary under the circumstances and will not compromise the purpose served by the standard. A variance must be issued in writing, must include DATCP's findings, and must include the specific terms of the variance (including any time limit on the variance). A variance request must include information to show that the variance is justified.

Fiscal Impact

This rule will not have a significant state or local fiscal impact. Section 173.41(14), Stats. (created by 2009 Wis. Act 90) requires DATCP to license and inspect "animal control facilities," "animal shelters," "dog breeders," "dog breeding facilities," "dog dealers" and "out of state dog breeders" that do business in this state. DATCP must inspect licensed facilities prior to licensing, and at least once every 2 years. Act 90 provided staff and funding for this licensing and inspection activity.

This rule will not create additional staffing requirements or program costs, beyond those entailed by Act 90 itself, nor will it change license fee revenues. Act 90 authorized DATCP to change initial statutory license fees by rule. However, this rule does not make any significant changes to the statutory fees.

Under Act 90 and this rule, whenever a license holder sells a dog in this state, the dog must be accompanied by a certificate of veterinary inspection (health certificate). The certificate must be issued by a Wisconsin certified veterinarian, on an official form provided by DATCP. Certified veterinarians may purchase the forms from DATCP at a cost of \$0.60 each (the same as for certificates used under other animal health programs). DATCP estimates that certificate sales will generate \$44,000 in program revenue each year. Act 90 contemplates that these revenues will be used to help fund this program.

A complete *Fiscal Estimate* is attached.

Business Impact

This rule will affect persons who operate “animal control facilities,” “animal shelters” or “dog breeding facilities” in this state. It will also affect persons who operate as “dog breeders,” “dog dealers” or “out-of-state dog dealers” in this state. Under 2009 Wis. Act 90, those persons must be annually licensed and must pay annual license fees as provided in this rule (see above). This rule does not, by itself, increase license requirements or fees (beyond the licensing requirements and fees already created by Act 90).

This rule spells out licensing standards for persons who are required to be licensed under this rule, including standards for the care, transportation and sale of dogs. Many of the persons who are subject to licensing under this rule are already meeting the standards under this rule, but others will incur costs to bring their facilities and practices into compliance with this rule.

- Under Act 90 and this rule, whenever a license holder sells a dog in this state, the dog must be accompanied by a certificate of veterinary inspection (health certificate). The certificate must be issued by a Wisconsin certified veterinarian, on an official form provided by DATCP. The certificate forms cost only \$0.60 each (an estimated \$44,000 for sellers statewide), but there will be a significant cost for veterinarian services. This could have a significant financial impact on license holders, especially small dog breeders. However, this rule does not add any costs beyond those imposed by Act 90 itself.
- The facility requirements in this rule are, for the most part, rudimentary. However, some license holders may need to make significant facility upgrades in order to comply with the standards in this rule and ensure a humane level of care.
- This rule requires license holders to keep inventory, identification and health records related to dogs that they keep or sell. Many of the persons affected by this rule already keep such records, but others do not. This rule may impose additional recordkeeping costs on those who do not. Many of the recordkeeping requirements in this rule are also contained (in more general form) in Act 90, so this rule does not add significantly to the costs already imposed by Act 90.
- This rule may require some dog sellers to hire additional staff, or hire professional services (especially veterinarian services) to comply with this rule and provide a humane level of care to dogs under their custody or control.

This rule will benefit the dog care and sales industry by establishing basic standards of humane care and fair competition. This rule will also benefit dog buyers by providing greater assurance that dogs are healthy and well-adjusted, and have been humanely treated.

Many of the persons affected by this rule are “small businesses.” This rule, like Act 90, exempts animal shelters that keep no more than 25 dogs per year. It also exempts dog breeders and dog dealers who sell no more than 25 dogs a year from no more than 3 litters. But neither Act 90 nor this rule make other significant exemptions for “small business,” because many of the most

serious animal health and humane problems addressed by Act 90 are found in “small business” settings.

The standards in this rule give affected businesses some flexibility and choices, consistent with the basic requirement of humane care. DATCP may issue licenses on a conditional basis, giving some license holders additional time to bring their operations into full compliance. DATCP may also grant variances for good cause, if the variance does not undermine the purpose of the standard from which the variance is granted.

A complete *Business Impact Analysis* is attached.

Federal and Surrounding State Programs

Federal Programs

Currently, USDA licenses and inspects approximately 49 kennels in Wisconsin that are selling puppies wholesale. USDA establishes minimum facility standards for those licensed facilities.

Surrounding State Programs

- *Minnesota* has no comparable licensing program for dog sellers or dog facilities. Proposed legislation failed in the last session, but will likely be reintroduced in the next session.
- *Illinois* licenses and regulates persons that have custody of more than 5 female dogs who breed dogs for sale. Illinois also licenses and regulates pet shops, dog dealers, kennel operators and catteries. Regulations establish minimum standards of care, record keeping requirements, and requirements for dog movement.
- *Michigan* has no comparable licensing program for dog sellers or dog facilities.
- *Iowa* licenses and regulates person that have custody of more than 3 breeding male or female dogs, including boarding kennels, breeders and dealers. Regulations establish minimum standards of care, record keeping requirements, and requirements for dog movement.

Data and Analytical Methodologies

DATCP consulted with an advisory committee comprised of veterinarians and persons that will be licensed and regulated under this rule. DATCP representatives also attended USDA presentations related to humane dog care standards.

Standards Incorporated by Reference

This rule incorporates, by reference, humane euthanasia methods identified by the American Veterinary Medical Association in *Appendix 1* to its *Guidelines on Euthanasia (June 2007)*. DATCP will ask permission from the Attorney General and the Legislative Reference Bureau to

incorporate this material by reference in this rule. Copies will be kept on file with DATCP and the Legislative Reference Bureau.

DATCP Contact

Questions and comments related to this rule may be directed to:

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Madison, WI 53708-8911
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1 **SECTION 1.** ATCP 10.06(1)(b) and (note) are amended to read:

2 ATCP 10.06(1)(b) A certificate of veterinary inspection is not required for the
3 movement of animals within this state, except as specifically provided in this chapter ~~or~~ ch.
4 ATCP 12 or ch. ATCP 16.

5 **NOTE:** A certificate of veterinary inspection ~~is~~ may be required under this chapter ~~or~~
6 ch. ATCP 12 or ch. ATCP 16 for the sale or movement of certain animals within
7 this state. See, for example, s. ATCP 10.56(1) related to intrastate movement of
8 farm-raised deer ~~and~~ s. ATCP 10.87(3) related to intrastate movement of swine
9 to fairs or exhibitions, and s. ATCP 16.16 related to sales of dogs by licensed dog
10 sellers.

11 **SECTION 2.** Chapter ATCP 16 is created to read:

Chapter ATCP 16

DOG SELLERS AND DOG FACILITY OPERATORS

14 **ATCP 16.01 Definitions.**

15 **ATCP 16.02 Dog sellers and dog facility operators; license.**

16 **ATCP 16.04 Persons exempt from licensing.**

17 **ATCP 16.06 Applying for a license.**

18 **ATCP 16.08 License fees and surcharges.**

19 **ATCP 16.10 Issuing or withdrawing a license.**

20 **ATCP 16.12 Inspecting licensed operations.**

21 **ATCP 16.14 Records kept by license holders.**

- 1 **ATCP 16.16 Dog sales; certificate of veterinary inspection.**
- 2 **ATCP 16.18 Age at which dogs may be sold.**
- 3 **ATCP 16.20 Dog care; general.**
- 4 **ATCP 16.22 Dogs kept indoors.**
- 5 **ATCP 16.24 Dogs kept outdoors.**
- 6 **ATCP 16.26 Transporting dogs.**
- 7 **ATCP 16.28 Prohibited conduct.**
- 8 **ATCP 16.30 Variances.**

9 **NOTE:** This chapter implements s. 173.41, Stats. The regulations in this chapter apply
10 only to persons who are required to be licensed under this chapter. A license
11 holder is responsible for ensuring that the license holder’s employees and agents
12 comply with applicable requirements under this chapter. A person is not required
13 to hold a license under this chapter for actions that the person takes solely as an
14 employee or agent of a license holder, provided that those actions are within the
15 scope of the license holder’s license.

16 **ATCP 16.01 Definitions.** In this chapter:

17 (1) “Accredited veterinarian” has the meaning given in s. ATCP 10.01(2).

18 (2) “Animal control facility” means a facility in this state for the care of animals operated
19 under a contract with a political subdivision under s. 173.15(1), Stats.

20 (3) “Animal shelter” means a facility in this state that is operated for the purpose of
21 providing for and promoting the welfare, protection, and humane treatment of animals, that is
22 used to shelter at least 25 dogs in a license year, and that is operated by a humane society, animal
23 welfare society, animal rescue group, or other nonprofit group.

24 (4) “Department” means the Wisconsin department of agriculture, trade and consumer
25 protection.

26 (5) “Dog breeder” means a person who in any license year sells at least 25 dogs, from
27 more than 3 litters, which that person has bred and raised in this state. A person has bred and
28 raised dogs for purposes of this paragraph if that person has owned the dogs from birth until sale,
29 regardless of whether the person has contracted with an agent to raise the dogs on real estate
30 owned or occupied by that agent.

1 **(6)** “Dog breeding facility” means a place in this state where dogs are bred and raised
2 and from which at least 25 dogs from more than 3 litters are sold in a license year.

3 **(7)** “Dog dealer” means any of the following persons, other than an out-of-state dog
4 dealer:

5 (a) A person who in any license year sells in this state at least 25 dogs that the person
6 owns but has not bred and raised.

7 (b) A person, other than an auctioneer or auction company registered under ch. 480,
8 Stats., who in any license year brokers or arranges the sale in this state of at least 25 dogs that are
9 under that person’s custody or control but that the person does not own and has not bred or
10 raised.

11 (c) An auctioneer or auction company registered under ch. 480, Stats., which operates
12 one or more auctions in this state in which a combined total of 50 or more dogs are sold or
13 offered for sale in any license year.

14 **(8)** “Dog trial” means an organized competitive field event involving sporting dog
15 breeds that is sanctioned, licensed, or recognized by a local, state, regional or national dog
16 organization.

17 **(9)** “Home custody provider” means an individual who is not required to be licensed
18 under s. ATCP 16.02(1), but who keeps dogs at his or her home for a person who is licensed
19 under s. ATCP 16.02(1).

20 **(10)** “License year” means a 12-month period ending on September 30.

21 **(11)** “Out-of-state dog dealer” means a non-resident person who in any license year
22 imports at least 25 dogs for sale in this state, regardless of whether the dogs were bred or raised
23 by that person.

1 (12) “Person” means an individual, corporation, partnership, cooperative, limited
2 liability company, trust, governmental entity, academic institution or other legal entity.

3 (13) “Primary enclosure” means an enclosed space where a dog spends the majority of
4 its time.

5 (14) “Sell” means to convey ownership for consideration.

6 (15) “Temporary dog market” means a place at which persons sell dogs, and may sell
7 other items, from booths or other spaces that are rented or provided to those persons on a
8 temporary basis by the market operator, except that “temporary dog market” does not include a
9 dog trial.

10 (16) “Wisconsin certified veterinarian” means a veterinarian certified under s. ATCP
11 10.05, Wis. Adm. Code.

12 **ATCP 16.02 Dog sellers and dog facility operators; license. (1) LICENSE REQUIRED.**

13 Except as provided in s. ATCP 16.04, no person may do any of the following in any license year
14 without an annual license from the department:

- 15 (a) Operate an animal control facility.
- 16 (b) Operate an animal shelter.
- 17 (c) Operate as a dog breeder.
- 18 (d) Operate a dog breeding facility.
- 19 (e) Operate as a dog dealer.
- 20 (f) Operate as an out-of-state dog dealer.

21 (2) LICENSE EXPIRATION. An annual license under sub (1) expires on September 30.

22 (3) LICENSE NOT TRANSFERABLE. A license under sub. (1) is not transferable between
23 persons or locations.

1 **(4) LICENSE DISPLAYED.** (a) A license holder under sub. (1) shall post a copy of the
2 license at each location, identified in the license application under s. ATCP 16.06, at which the
3 license holder keeps dogs pursuant to the license. The license holder shall post the license copy
4 in a prominent place that is readily visible to persons entering that location.

5 **(5) LICENSE NUMBER INCLUDED IN ADVERTISEMENT.** A license holder under sub. (1) who
6 advertises to sell dogs in this state shall include that person's license number in each
7 advertisement.

8 **ATCP 16.04 Persons exempt from licensing.** The following persons are exempt from
9 licensing under s. ATCP 16.02(1), to the extent that they are engaged only in the following
10 activities:

11 **(1) VETERINARIAN.** A veterinarian who keeps dogs for the purpose of providing care or
12 treatment in the normal course of veterinary practice, within the scope of the veterinarian's
13 license under ch. 453, Stats.

14 **(2) PERSON CONDUCTING ONE-TIME SALE OF HIS OR HER DOGS.** A person who sells his or
15 her dogs at a one-time liquidation sale if all of the following apply:

16 (a) The person notifies the department of the proposed liquidation sale at least 30 days
17 prior to the start of the sale. The notice shall identify the number of dogs that the person will
18 offer for sale, the location at which the person keeps those dogs, and the starting date of the sale.

19 (b) The person, at the start of the liquidation sale and throughout the sale, offers to sell
20 all of the dogs that the person owns and keeps at the location identified under par. (a).

21 (c) The person owns and keeps, at the location identified under par. (a), no more than 30
22 dogs at the start of the liquidation sale or at any time during the liquidation sale.

1 (d) The person does not move any other dogs to the location identified under par. (a)
2 during the liquidation sale.

3 (e) The person does not permit other persons to sell their dogs from the location
4 identified under par. (a) during the liquidation sale.

5 (f) The person was not licensed under s. ATCP 16.02(1) during the preceding license
6 year, and did not conduct a sale under this subsection during the preceding license year.

7 **(3) OPERATOR OF TEMPORARY DOG MARKET.** The operator of a temporary dog market if
8 the operator does all of the following:

9 (a) Gives the department written notice of the temporary dog market, at least 10 days
10 prior to the start of the market. The notice shall include the location of the market, the beginning
11 and ending dates of the market, and the approximate number of sellers who may bring dogs to
12 the market.

13 (b) Provides adequate facilities for, and takes reasonable steps to ensure, humane
14 treatment of all dogs kept at the market.

15 (c) Arranges for a Wisconsin certified veterinarian to examine all dogs kept at the market
16 on each day of market operations, if the market operates for 2 or more consecutive days.

17 (d) Obtains all of the following information from each person who brings one or more
18 dogs to the market, before the dogs enter the market premises:

19 1. The person's name and address.

20 2. The number of the person's license under s. ATCP 16.02(1), if any.

21 3. The number of dogs that the person brings to the market.

22 4. A description of each dog that the person brings to the market, including the dog's
23 breed or type, sex, date of birth or approximate age, color, and any distinctive markings. If the

1 person brings a dog on behalf of another person, or brings a dog that the person has purchased
2 from another person, the description shall indicate that fact and shall include the name and
3 address of that other person.

4 5. Documentation showing that each dog that the person brings to the market has
5 received a rabies vaccination if required under s. 95.21(2), Stats., and, if the dog has been
6 imported into this state, has been imported in compliance with s. ATCP 10.80.

7 (e) Keeps the information required under par. (d) for at least 5 years, and makes that
8 information available to the department for inspection and copying upon request.

9 (f) Allows the department to inspect the temporary dog market during market hours.

10 **ATCP 16.06 Applying for a license.** A person shall apply for a license under s. ATCP
11 16.02(1) on a form provided by the department. The application shall include all of the
12 following:

13 (1) The applicant's legal name and any business names under which the applicant may
14 engage in an activity for which the license is required.

15 (2) The applicant's principal business address.

16 (3) The address of each location, other than the residence of a home custody service
17 provider under s. ATCP 16.04(2), at which the applicant may keep dogs in this state pursuant to
18 the license. If an identified location is an animal control facility, animal shelter or dog breeding
19 facility, the application shall disclose that fact.

20 (4) A statement indicating whether, in connection with the applicant's licensed
21 operation, the applicant may consign any dogs to individuals for home custody under s. ATCP
22 16.04(2).

1 (5) An identification of each activity under s. ATCP 16.02(1)(a) to (f) in which the
2 applicant may engage.

3 (6) The total number of dogs that the applicant sold during the preceding license year
4 from all locations identified under sub. (3) other than from animal control facilities and animal
5 shelters. If the applicant did not sell any dogs from those locations during the preceding license
6 year, the applicant shall report the total number of dogs that the applicant expects to sell from
7 those locations during the license year for which application is made.

8 (7) All license fees and surcharges required under s. ATCP 16.08.

9 (8) If the applicant applies to be licensed as an out-of-state dog dealer, copies of all of
10 the following:

11 (a) Any dog seller's license that the person is required to hold in the state from which
12 that person operates in this state as an out-of-state dog dealer.

13 (b) Any dog seller's license that the person is required to hold under federal law.

14 **ATCP 16.08 License fees and surcharges.** A license application under s. ATCP 16.06
15 shall include all of the following nonrefundable fees and surcharges, as applicable:

16 (1) A license fee of \$125 for each animal shelter or animal control facility that the
17 applicant may operate during the license year. If the applicant operates a combined animal
18 shelter and animal control facility at the same location, the \$125 fee for that location covers the
19 combined operations.

20 (2) The following fee based on the number of dog sales reported under s. ATCP
21 16.06(6):

22 (a) \$250 if the number is at least 25 but less than 50.

23 (b) \$500 if the number is at least 50 but less than 100.

1 (c) \$750 if the number is at least 100 but less than 250.

2 (d) \$1,000 if the number is at least 250.

3 **NOTE:** The fee under sub. (2) is based on the total number of dogs sold by the applicant,
4 regardless of the number of locations from which the applicant makes those
5 sales.

6 (3) If the applicant is an out-of-state dog seller, a fee that is 150 percent of the fee
7 calculated under sub. (2).

8 (4) A late renewal surcharge equal to 20% of all license fees required under subs. (1) to
9 (3) if the applicant seeks to renew a license after that license has expired.

10 (5) A surcharge equal to the total of all license fees required under subs. (1) to (3) if the
11 department determines that any of the following apply:

12 (a) Within 365 days prior to submitting the license application, the applicant operated
13 without a license required under s. ATCP 16.02(1).

14 (b) The applicant knowingly misrepresented information in the applicant's license
15 application for the preceding license year, in order to avoid payment of any required license fees.

16 **NOTE:** A surcharge payment under sub. (5) does not relieve the applicant of any other
17 penalties or liabilities that the applicant may incur as a result of any act or
18 omission under sub. (5), but does not constitute evidence of a law violation.

19
20 (6) Any unpaid reinspection fee properly charged under s. ATCP 16.12(6).

21
22 **ATCP 16.10 Issuing or withdrawing a license. (1) TIMELY ACTION ON LICENSE**

23 APPLICATION. The department shall grant or deny a license application under s. ATCP 16.06

24 within 30 business days after all of the following have occurred:

25 (a) The department has received a complete application, including all required fees and
26 surcharges.

1 (b) The department has completed any pre-license inspection required under s. ATCP
2 16.12(2).

3 (2) DENYING, SUSPENDING OR REVOKING A LICENSE. (a) The department may deny a
4 license application under s. ATCP 16.06 or suspend or revoke a license issued under s. ATCP
5 16.02(1) if the applicant or license holder fails to comply with applicable licensing requirements;
6 is not fit, qualified or equipped to conduct the activity for which the license is required; has
7 violated or failed to obey a relevant law, order, or regulation; or has misrepresented or failed to
8 disclose any material fact in a license application.

9 (b) Whenever the department denies, suspends or revokes a license under par. (a), the
10 department shall give the applicant or license holder a written notice that does all of the
11 following:

12 1. Specifies the reasons for the denial, suspension or revocation.

13 2. Notifies the applicant or license holder that he or she may request a hearing on the
14 denial, suspension or revocation by filing a written request with the department within 10 days
15 after receiving the notice. The department shall promptly consider the hearing request, following
16 the procedures set forth in ch. ATCP 1.

17 (3) CONDITIONAL LICENSE. The department may issue a license under s. ATCP 16.02(1)
18 on a conditional basis, contingent upon pertinent circumstances or acts. If a license is
19 conditioned upon compliance with specific requirements within a specific time period, and the
20 license holder fails to comply with those requirements within that time period, the license is
21 void.

1 (4) SUMMARY LICENSE SUSPENSION. (a) The department may by written notice, without
2 prior notice or hearing, suspend a license issued under s. ATCP 16.02(1) if the department finds
3 any of the following based on reasonable evidence:

4 1. That the license holder or the license holder's employee or agent has violated this
5 chapter, and that the violation imminently threatens the health, safety, or welfare of any dog.

6 2. That the license holder or the license holder's employee or agent has committed an act
7 of animal cruelty in violation of ch. 951, Stats.

8 (b) A suspension notice under par. (a) shall include the notice required under sub. (2)(b).

9 (c) A suspension notice under par. (a) may specify a reinspection date, and may specify
10 conditions that must be met in order for the license to be reinstated.

11 (d) The department may at any time reinstate a license that has been summarily
12 suspended under this subsection if the department finds that circumstances warrant
13 reinstatement.

14 **ATCP 16.12 Inspecting licensed operations.** (1) GENERAL. (a) The department may
15 at any time during reasonable hours inspect any place at which a person who is required to be
16 licensed under s. 16.02(1) engages in any activity for which that license is required, regardless of
17 whether that person owns or operates that place.

18 (2) PRE-LICENSE INSPECTIONS. Before the department licenses a person to keep dogs at a
19 location identified under s. ATCP 16.06(3) at which the person was not previously licensed to
20 keep dogs, the department shall inspect that location. The department shall conduct the
21 inspection within 60 business days after the department receives a complete license application
22 under s. ATCP 16.06.

1 (3) BIENNIAL INSPECTIONS. The department shall inspect, at least once in every 2 license
2 years, each location identified under s. ATCP 16.06(3) at which a license holder is licensed to
3 keep dogs.

4 (4) SCOPE OF INSPECTION. An inspection required under sub. (2) or (3) shall examine
5 compliance with applicable requirements under this chapter, including applicable requirements
6 related to recordkeeping, dog health and standards of care.

7 (5) INSPECTION REPORT. (a) Whenever the department performs an inspection under this
8 section, the department shall provide the license applicant or license holder with a written
9 inspection report.

10 (b) A license holder who keeps dogs at any location identified under s. ATCP 16.06(3)
11 shall post a copy of the most recent inspection report related to that location in a prominent place
12 at that location. The inspection report shall be posted so that it can be easily noticed and read by
13 persons visiting the licensed location.

14 (6) REINSPECTION FEES. The department may charge, to the holder of a license under s.
15 ATCP 16.02(1), a reinspection fee of \$150 for a reinspection that the department makes to
16 determine whether that person has corrected a previous violation of this chapter, noted on a
17 previous inspection report. The department may not charge a reinspection fee under this
18 subsection for a routine or regularly scheduled inspection, or for an inspection that is required
19 under this chapter.

20 **ATCP 16.14 Records kept by license holders. (1) GENERAL.** A person who is
21 required to be licensed under s. ATCP 16.02(1) shall keep all of the records required under this
22 section. The person shall keep the records, in written or readily readable electronic form, at the
23 principal business location identified under s. ATCP 16.06(2). The person shall retain the

1 records for at least 5 years after they are made, and shall make them available to the department
2 for inspection and copying upon request.

3 (2) DOG LOCATIONS. A person licensed under s. ATCP 16.20(1) shall keep a record of
4 each location at which dogs are kept pursuant to the license. The record shall include the address
5 of each location, and the name of the individual responsible for administering that location. If
6 the license holder consigns a dog to a home custody provider, the license holder shall record the
7 name and address of that individual.

8 (3) DOG RECORDS. A person licensed under s. ATCP 16.02(1) shall keep all of the
9 following records related to each dog over which that person exercises custody or control at any
10 time during the license year, including any dog that the person consigns to a home custody
11 provider:

12 (a) A description of the dog including the dog's breed or type, sex, date of birth or
13 approximate age, color, and distinctive markings.

14 (b) The location at which the dog is kept, including any the address of any home custody
15 provider.

16 (c) Any United States department of agriculture official identification assigned to the
17 dog and any other identification tag, tattoo or microchip information.

18 (d) A statement that the dog was born under the license holder's custody or control, if
19 that is the case.

20 (e) All of the following information if the dog was not born under the license holder's
21 custody or control:

22 1. The date on which the license holder acquired custody or control over the dog.

1 2. The identity of the person from whom the license holder acquired custody or control
2 of the dog. The record shall include the person's name, address, and United States department of
3 agriculture animal care facility license or registration number if any.

4 (f) All of the following information if the dog is no longer under the license holder's
5 custody or control:

6 1. The date on which the dog left the license holder's custody or control.

7 2. The disposition of the dog.

8 3. The identity of the person, if any, to whom the license holder transferred custody or
9 control of the dog.

10 (g) A copy of any certificate of veterinary inspection that accompanied the dog when it
11 entered or left the license holder's custody or control.

12 (h) Health records related to the dog, including vaccination, observation and treatment
13 records and whether the health care was administered by the license holder or by a veterinarian.

14 (i) Breed registration records if any.

15 **(4) BEHAVIOR AND SOCIALIZATION PLAN.** A person who is required to be licensed under
16 s. ATCP 16.02(1) shall keep a copy of the behavior and socialization plan required under s.
17 ATCP 16.20(6)(e).

18 **ATCP 16.16 Dog sales; certificate of veterinary inspection. (1) WHEN REQUIRED.**
19 Whenever a person who is required to be licensed under s. ATCP 16.02(1) sells a dog in this
20 state, the dog shall be accompanied by a valid certificate of veterinary inspection. A single
21 certificate may cover more than one dog.

1 (2) WHO MAY ISSUE. A certificate of veterinary inspection under sub. (1) shall be
2 prepared and signed by a Wisconsin certified veterinarian, except that a certificate accompanying
3 a dog imported into this state may be issued by an accredited veterinarian.

4 (3) FORM. (a) A certificate of veterinary inspection shall be issued on a form provided
5 by the department, the United States department of agriculture, or the state in which the
6 certificate is issued. A certificate issued in this state shall be issued on a form provided by the
7 department.

8 (b) A Wisconsin certified veterinarian may obtain Wisconsin certificate of veterinary
9 inspection forms from the department, as provided under s. ATCP 10.06(3)(b).

10 **NOTE:** Wisconsin certificate of veterinary inspection forms may be obtained
11 for \$0.60 each. Forms may be obtained online at:
12 <http://www.datcp.state.wi.us/ah/vetsupplies/index.jsp>
13 or by contacting the department at the following address:

14
15 Wisconsin Department of Agriculture, Trade and Consumer Protection
16 Division of Animal Health
17 P.O. Box 8911
18 Madison, WI 53708-8911
19 Phone: (608) 224-4872
20 Fax: (608) 224-4871

21 (4) CONTENTS. A certificate of veterinary inspection under sub. (1) shall include all of
22 the following information:

23 (a) The name and address of the person selling the dog.

24 (b) The breed, sex and age of the dog.

25 (c) Whether the dog is spayed, neutered or sexually intact.

26 (d) The dog's vaccination record. The vaccination record shall identify each type of
27 vaccination that the dog has received. For each type of vaccination, the record shall include all
28 of the following:

- 1 1. The name of the vaccine manufacturer.
- 2 2. The vaccine serial number and lot number.
- 3 3. The date on which the vaccine was administered.
- 4 4. The name of the person who administered the vaccine.

5 (e) Any information required under s. ATCP 10.06(4) or 10.80 if the certificate of
6 veterinary inspection accompanies a dog imported into this state.

7 (f) If the dog is sold at public auction, and is not spayed or neutered, documentation
8 showing that the dog has tested negative on a brucellosis test conducted within 30 days prior to
9 the sale using a test method approved by the department.

10 **NOTE:** Approved brucellosis test methods may be obtained by contacting the
11 department online at: <http://www.datcp.state.wi.us>
12 or by contacting the department at the following address:
13

14 Wisconsin Department of Agriculture, Trade and Consumer Protection
15 Division of Animal Health
16 P.O. Box 8911
17 Madison, WI 53708-8911
18 Phone: (608) 224-4872
19 Fax: (608) 224-4871

20 (g) The following statement, or a substantially similar statement, that is based on at least
21 a brief personal examination by the veterinarian making the statement:

22 "I certify, as a veterinarian, that I have inspected the dogs identified on this certificate
23 and that the dogs are not showing any sign of infectious, contagious or communicable
24 disease, except as otherwise noted on this certificate. Vaccinations and test results
25 are as indicated on this certificate. This certificate is not a warranty."
26

27 (h) The veterinarian's signature and the date of signature.

28 **(5) ISSUANCE AND EXPIRATION.** (a) A veterinarian who signs a certificate of veterinary
29 inspection under sub. (1) shall sign that certificate within 10 days after the veterinarian
30 completes the examination on which the certificate is based. The certificate is valid for 30 days

1 after the date on which the veterinarian completes the examination on which the certificate is
2 based.

3 (6) DISTRIBUTION. Each of the following persons shall receive a copy of each certificate
4 of veterinary inspection under sub. (1):

5 (a) The person buying the dog.

6 (b) The person selling the dog.

7 (c) The veterinarian who issues the certificate.

8 (7) RE-USING A CERTIFICATE. (a) If a dog is resold prior to the expiration of a certificate
9 of veterinary inspection issued for a prior sale of the same dog, the unexpired certificate shall
10 accompany the resold dog. No new certificate is required for the resale, provided that all of the
11 following apply:

12 1. The unexpired certificate is updated to include required information related to the new
13 seller.

14 2. The new seller keeps a copy of the updated certificate.

15 3. The new buyer receives a copy of the updated certificate.

16 (b) A certificate of veterinary inspection may incorporate information from a prior
17 unexpired certificate of veterinary inspection for the same dog. The new certificate shall include
18 the following statement or a substantially similar statement:

19 “The *(identify pertinent information incorporated from the prior certificate)* on this
20 certificate has been copied from the attached certificate of veterinary inspection
21 issued by *(name of veterinarian who issued the prior certificate)* at *(address)* on
22 *(date)*.”

23 **ATCP 16.18 Age at which dogs may be sold.** A person who is required to be licensed
24 under s. ATCP 16.02(1) may not, in connection with the sale of a dog, transfer that dog to the
25 physical custody of the buyer unless one of the following applies:

- 1 (1) The dog is at least 7 weeks old.
- 2 (2) The dog is accompanied by its dam.
- 3 (3) The department approves the transfer in writing.

4 **ATCP 16.20 Dog care; general.** The following standards of care apply to all dogs kept
5 pursuant to a license under s. ATCP 16.02(1), including any dogs that the license holder
6 consigns to a home custody provider:

7 (1) **FOOD AND WATER.** (a) Each dog shall be fed at least once a day, unless another
8 schedule is needed to maintain or restore the dog's health.

9 (b) The size and nutritional content of a dog's daily food ration shall be based on dog's
10 age, condition, size and weight.

11 (c) Dog food shall be wholesome, uncontaminated and palatable. Dog food shall be
12 stored in a manner that keeps it wholesome, uncontaminated and palatable. Food storage
13 containers shall be kept clean and free of contaminants.

14 (d) All dogs shall have adequate access to water during the course of the day to keep the
15 dogs well-hydrated at all times. Water shall be fluid, potable and uncontaminated.

16 (e) Food and water shall be provided under this subsection in durable containers, except
17 that food may be provided in a nondurable container if the container is discarded after a single
18 use.

19 (f) Water containers, non-disposable food containers and non-disposable utensils shall be
20 cleaned with an appropriate detergent, rinsed, and sanitized with an appropriate sanitizer as often
21 as necessary to keep them free of accumulated dirt, debris and disease hazards.

22 (2) **ANIMAL HEALTH AND VETERINARY CARE.** (a) Each dog shall be handled as carefully
23 as practicable and in a humane manner that does not cause physical harm or unnecessary injury.

1 (b) The responsible caretaker on the premises, or an individual implementing a
2 caretaker's oral or written instructions, shall perform daily body, mobility and behavior checks
3 on each dog.

4 (c) Any dog that has or is suspected of having a communicable disease shall be kept
5 physically separated from other susceptible animals to prevent the disease from spreading to
6 those animals.

7 (d) Each dog shall be groomed as necessary to prevent abnormal matted hair and
8 overgrown nails, and to allow freedom of movement and normal bodily functions.

9 (e) A veterinarian shall examine each dog as often as necessary to ensure adequate health
10 care. The examining veterinarian shall use appropriate methods to prevent, control, diagnose
11 and treat diseases and injuries. The license holder shall follow the veterinarian's
12 recommendations.

13 (f) Sick, diseased or injured dogs shall be provided with timely veterinary care or shall
14 be euthanized by a method described in *Appendix I* to the *Guidelines on Euthanasia* published
15 by the American Veterinary Medical Association (June 2007).

16 **NOTE:** Copies of *Appendix I* to the *Guidelines on Euthanasia* published by the
17 American Veterinary Medical Association (June 2007) are on file with the
18 department and may be obtained online at [http://www.avma.org/issues/animal](http://www.avma.org/issues/animal_welfare/euthanasia.pdf)
19 [welfare/euthanasia.pdf](http://www.avma.org/issues/animal_welfare/euthanasia.pdf) or from the American Veterinary Medical Association at
20 the following address:

21
22 American Veterinary Medical Association
23 1931 N. Meacham Rd
24 Suite 100
25 Schaumburg, Ill 60173-4360
26

27 (g) The department may, by written notice, require a person holding a license under s.
28 ATCP 16.02(1) to submit a dog for examination by a licensed veterinarian within a specified

1 time period if the department finds, based on its inspection, that the dog is exhibiting signs of
2 illness, injury or neglect.

3 (3) HOUSING AND TRANSPORTATION. (a) Except as provided in par. (c), dogs shall be
4 kept in facilities that comply with ss. ATCP 16.22 and 16.24.

5 (b) Dogs shall be transported in compliance with s. ATCP 16.26.

6 (c) Paragraph (a) does not apply to a facility that is used only for the purpose of
7 breeding, raising and selling dogs for scientific research, provided that all of the following apply:

8 1. The license holder was using that facility solely for that purpose on *[legislative*
9 *reference bureau inserts effective date of this chapter*, and any primary enclosures added or
10 materially reconstructed since that date comply with ss. ATCP 16.22 and 16.24.

11 2. The dogs are sold from the facility at which they are bred and raised.

12 3. The dogs are sold only to animal care facilities licensed or registered by the United
13 States department of agriculture, and are not resold to any other person.

14 4. The dogs are kept in enclosures that comply with 9 CFR subchapter A (animal
15 welfare).

16 (4) EXERCISE. A dog shall be allowed reasonable daily exercise, based on the dog's
17 breed, size, age and health condition. Dogs shall have daily access to an indoor or outdoor run or
18 exercise area where they can achieve a running stride. Repetitive unsupervised physical activity,
19 such as unsupervised placement on a moving treadmill, which prevents a dog from engaging in
20 other activities, shall be avoided except for good cause.

21 (5) DOG GROUPING AND SEPARATION. (a) Dogs shall be separated, as necessary, into
22 compatible groups.

1 (b) Females in season (estrus) may not be kept with sexually intact males in the same
2 primary enclosure, or kept without separation from sexually intact males in any confined area,
3 except for breeding purposes.

4 (c) Dogs exhibiting potentially harmful aggressive behavior shall be separated from
5 other dogs.

6 (d) Puppies under 4 months old may not be kept with adult dogs other than their dam or
7 foster dam in the same primary enclosure or other confined area, unless under direct supervision.

8 **(6) BEHAVIOR AND SOCIALIZATION.** (a) All dogs shall have daily, full-body physical
9 contact with other compatible dogs, except where such contact must be avoided for good cause.

10 (b) All dogs shall have daily positive human contact and socialization, not limited to
11 feeding time.

12 (c) All dogs shall have safe play objects or other effective forms of inanimate enrichment
13 in their primary enclosures, except where such objects or enrichment must be denied for good
14 cause.

15 (d) Dogs may not be deprived of contact, activity or enrichment under this section for
16 extended periods, except for good cause.

17 (e) A license holder under s. ATCP 16.02(1) shall have a written plan for meeting the
18 requirements under this subsection, and shall instruct employees and agents on the terms of that
19 plan.

20 **ATCP 16.22 Dogs kept indoors.** The following requirements apply to an indoor
21 facility at which a person keeps dogs pursuant to a license under s. ATCP 16.02(1):

1 (1) PRIMARY ENCLOSURES; GENERAL. (a) *Size and configuration.* An indoor primary
2 enclosure shall comply with sub. (2) or (3), except that a whelping enclosure shall comply with
3 sub. (4) and a nursery enclosure shall comply with sub. (5).

4 (b) *Floors and interior surfaces.* Floors and interior surfaces of an indoor primary
5 enclosure shall comply with all of the following standards:

6 1. Dirt floors are prohibited.

7 2. A floor, other than a floor in the portion of a whelping enclosure that is accessible to
8 puppies, may be constructed of metal wire mesh. The wire shall be coated with an acceptable
9 material to prevent injury to the dogs' feet. The wire shall be of an adequate gauge to prevent
10 sagging under the weight of the dog or dogs kept in the enclosure, and to prevent injury to the
11 dogs' feet.

12 **NOTE:** Stainless steel slatting is not wire mesh.

13
14 3. Floor openings, if any, shall be small enough to prevent the feet of the smallest dog
15 kept in the enclosure from passing through or becoming entangled in the openings.

16 4. Floors and other interior surfaces shall be constructed and maintained to keep clean,
17 dry, and safe from injury. Surfaces shall be regularly cleaned and sanitized.

18 (c) *Stacking primary enclosures.* No indoor primary enclosure may be stacked on top of
19 any other indoor primary enclosure unless the stacking arrangement complies with all of the
20 following:

21 1. The floor of the top enclosure shall be no higher than 52 inches from the floor of the
22 room in which the enclosures are stacked.

1 2. The stacking arrangement shall provide for safe dog handling, adequate ventilation
2 and temperature control, easy cleaning and sanitization, and easy inspection of all stacked
3 enclosures.

4 3. Each stacked enclosure shall have a fully ventilated front side and a solid floor that
5 can be easily cleaned and sanitized.

6 4. The stacked enclosures shall be stable when filled to maximum capacity with dogs.

7 5. No dog in any of the stacked enclosures may be exposed to any excreta, urine, dirt or
8 debris falling from a higher enclosure.

9 **(2) PRIMARY ENCLOSURE FOR ONE OR MORE DOGS THAT GET AT LEAST 30 MINUTES OF**
10 **EXERCISE EACH DAY.** A primary enclosure under this subsection shall comply with all of the
11 following requirements:

12 (a) The floor area of the primary enclosure shall be at least equal to the sum of the floor
13 areas under pars. (b) and (c), where each dog's length is measured from the tip of the dog's nose
14 to the base of the dog's tail.

15 (b) For the largest dog in the primary enclosure, the primary enclosure shall include a
16 floor area at least equal to the following:

17 1. For a dog up to 10 inches long, 4.5 sq. ft.

18 2. For a dog 11 to 16 inches long, 8 sq. ft..

19 3. For a dog 17 to 22 inches long, 12 sq. ft..

20 4. For a dog 23 to 26 inches long, 18 sq. ft..

21 5. For a dog 26 to 30 inches long, 24 sq. ft.

22 6. For a dog more than 30 inches long, 30 sq. ft..

1 (c) For each additional dog in the primary enclosure, other than the dog under par. (b),
2 the primary enclosure shall include a floor area at least equal to the following:

- 3 1. For a dog up to 10 inches long, 3.375 sq. ft.
- 4 2. For a dog 11 to 16 inches long, 6 sq. ft.
- 5 3. For a dog 17 to 22 inches long, 9 sq. ft.
- 6 4. For a dog 23 to 26 inches long, 13.5 sq. ft.
- 7 5. For a dog 26 to 30 inches long, 18 sq. ft.
- 8 6. For a dog more than 30 inches long, 22.5 sq. ft.

9 (d) The height of the primary enclosure shall be at least 12 inches taller than the tallest
10 dog in the enclosure.

11 (e) Each dog kept in the primary enclosure shall have access for at least 30 minutes each
12 day to an indoor or outdoor run or area for exercise that is large enough for the dog's size and
13 temperament, considering the number of dogs that may use the run or exercise area at the same
14 time. The run or exercise area shall be large enough so that the dog can achieve a running stride.

15 **NOTE:** A primary enclosure may also function as a run or exercise area if it complies
16 with par. (e).

17
18 **(3) PRIMARY ENCLOSURE FOR ONE DOG THAT GETS AT LEAST 120 MINUTES OF EXERCISE**
19 EACH DAY. A primary enclosure under this subsection shall comply with all of the following
20 requirements:

21 (a) No more than one dog may be kept in the primary enclosure at any time.

22 (b) The floor area of the primary enclosure shall be based on the length of the dog kept in
23 the enclosure. The floor area shall be at least equal to the following, where the length of the dog
24 is measured from the tip of the dog's nose to the base of the dog's tail:

- 25 1. For a dog up to 10 inches long, 4 sq. ft.

- 1 2. For a dog 11 to 16 inches long, 6 sq. ft.
- 2 3. For a dog 17 to 22 inches long, 10 sq. ft.
- 3 4. For a dog 23 to 26 inches long, 14 sq. ft.
- 4 5. For a dog 27 to 30 inches long, 18 sq. ft.
- 5 6. For a dog more than 30 inches long, 20 sq. ft.

6 (c) The height of the primary enclosure shall be at least 12 inches taller than the dog that
7 is kept in the enclosure.

8 (d) The dog kept in the primary enclosure shall have access for at least 120 minutes each
9 day to an indoor or outdoor run or exercise area that is large enough for the dog's size and
10 temperament, considering the number of dogs that may use the run or exercise area at the same
11 time. The run or exercise area shall be large enough so that the dog can achieve a running stride.

12 **(4) WHELPING ENCLOSURE.** An indoor primary enclosure for a single whelping dam and
13 her puppies shall comply with all of the following requirements, rather than the requirements
14 under sub. (2) or (3):

15 (a) The enclosure shall be of an appropriate type for the breed kept in the enclosure.

16 (b) The enclosure shall have a solid floor in that portion of the enclosure that is
17 accessible to the puppies.

18 (c) The enclosure shall be tall enough for the dam to stand normally and comfortably,

19 (d) The enclosure shall be large enough for the dam to lie down in a stretched out
20 position, so that all puppies can simultaneously nurse.

21 (e) The enclosure shall be large enough for the number and temperament of the puppies.

22 (f) The enclosure shall include an area that is accessible only to the dam and is large
23 enough to accommodate the dam. That area may have a non-solid floor that complies with sub.
24 (1)(b).

1 (5) NURSERY ENCLOSURE. An indoor primary enclosure for puppies between the age of
2 weaning and the age of 4 months shall comply with the following requirements, rather than the
3 requirements under sub. (2) or (3):

4 (a) The enclosure shall be large enough to allow all of the puppies to turn around, stand
5 up, lie down, and exercise normal postural movements.

6 (b) The enclosure shall be large enough to encourage socialization and exercise.

7 (6) TEMPORARY ENCLOSURE FOR ONE DOG. A dog may be kept for up to 12 hours a day
8 in a temporary indoor enclosure that does not meet the standards for a primary enclosure under
9 this section if all of the following apply:

10 (a) Only one dog is kept in the temporary enclosure at any time.

11 (b) The temporary enclosure is long enough to accommodate the entire length of dog's
12 head and body, measured from the tip of the dog's nose to the base of the dog's tail.

13 (c) The temporary enclosure is tall enough for the dog to stand normally and
14 comfortably, and large enough for the dog to turn around and lie down.

15 (7) LIGHTING, TEMPERATURE AND VENTILATION. (a) An indoor facility shall have well-
16 distributed natural or artificial light that is adequate for proper care, maintenance and inspection
17 of the facility and of all dogs kept in the facility. All areas in which dogs are kept shall have a
18 diurnal lighting cycle.

19 (b) An indoor facility shall have adequate heating and cooling facilities, and shall be
20 heated and cooled as necessary to keep temperatures within appropriate limits, based on the dog
21 breeds kept at the facility and the ability of those breeds to acclimate to temperature variation.
22 Dogs shall be protected from heat, cold and humidity that may be injurious to their health.

23 **NOTE:** An unheated facility may comply with par. (b), depending on the breed, age,
24 health and acclimation of the dogs kept in that facility.

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(c) An indoor facility shall be adequately ventilated with fresh or filtered air to maintain the health and comfort of all dogs and to minimize odors, drafts, ammonia levels and moisture condensation. The facility shall provide an exchange of air between indoor areas where dogs are kept and the outdoors.

(9) CLEANING AND SANITATION. (a) Excreta shall be removed from primary enclosures and other dog holding areas at least daily, and more often as necessary for the health and comfort of all dogs.

(b) Primary enclosures and other dog holding areas shall be cleaned with an appropriate detergent, rinsed, and sanitized with an appropriate sanitizer, as often as necessary to keep them free of accumulated dirt, debris and disease hazards.

(c) A primary enclosure shall be cleaned and sanitized before any new dog is placed in the enclosure.

(d) Dogs shall be removed from primary enclosures or other dog holding areas before those areas are cleaned and sanitized. Dogs may not be returned to the cleaned or sanitized enclosure or area until the enclosure or area is dry.

(e) All dogs shall have clean, dry and breed-appropriate bedding, or shall have a solid resting place that is appropriate for the dog's breed, age, health and physical condition, unless alternative special arrangements are necessary for the dog's health and safety.

ATCP 16.24 Dogs kept outdoors. The following requirements apply to an outdoor facility at which a person keeps dogs pursuant to a license under s. ATCP 16.02(1):

(1) DOGS THAT MAY BE KEPT IN OUTDOOR PRIMARY ENCLOSURES. A dog may not be kept in an outdoor primary enclosure unless all of the following apply:

1 (a) The dog is readily able to tolerate the outdoor temperatures and conditions to which
2 the dog may be exposed in that primary enclosure, considering the dog's breed, age, health and
3 physical condition.

4 (b) The dog is acclimated to the outdoor temperatures and temperature variations that
5 may occur in that primary enclosure.

6 (2) OUTDOOR PRIMARY ENCLOSURE; MINIMUM AREA. The area of an outdoor primary
7 enclosure, not counting the area of any dog shelter under sub. (5), shall be at least equal to the
8 sum of the following, where each dog's length is measured from the tip of the dog's nose to the
9 base of the dog's tail:

10 (a) For the largest dog in the primary enclosure, the following area:

- 11 1. For a dog up to 10 inches long, 4.5 sq. ft.
- 12 2. For a dog 11 to 16 inches long, 8 sq. ft..
- 13 3. For a dog 17 to 22 inches long, 12 sq. ft..
- 14 4. For a dog 23 to 26 inches long, 18 sq. ft..
- 15 5. For a dog 26 to 30 inches long, 24 sq. ft.
- 16 6. For a dog more than 30 inches long, 30 sq. ft..

17 (b) For each additional dog in the primary enclosure, the following area:

- 18 1. For a dog up to 10 inches long, 3.375 sq. ft.
- 19 2. For a dog 11 to 16 inches long, 6 sq. ft.
- 20 3. For a dog 17 to 22 inches long, 9 sq. ft.
- 21 4. For a dog 23 to 26 inches long, 13.5 sq. ft.
- 22 5. For a dog 26 to 30 inches long, 18 sq. ft.
- 23 6. For a dog more than 30 inches long, 22.5 sq. ft.

1 **(3) OUTDOOR PRIMARY ENCLOSURE; CONSTRUCTION.** An outdoor primary enclosure shall
2 be constructed and maintained to prevent dogs from escaping from the enclosure. If any portion
3 of the primary enclosure is covered by a roof or overhead screen, the roof or screen shall be at
4 least 12 inches above the standing height of the tallest dog kept in the primary enclosure.

5 **(4) SHELTER, SHADE AND WINDBREAK.** An outdoor primary enclosure shall contain all of
6 the following:

7 (a) One or more dog shelters that collectively comply with sub. (5).

8 (b) A shaded area, other than the dog shelter under sub. (5), which is adequate to shade
9 all dogs in the primary enclosure from direct sunlight during any sunlight hours in which heat
10 stress may occur, without crowding.

11 (c) A windbreak, other than the dog shelter under sub. (5), which is adequate to shelter
12 all dogs in the primary enclosure from wind.

13 **(5) DOG SHELTER.** A dog shelter, under sub. (4)(a), shall meet all of the following
14 requirements:

15 (a) It shall be made of a durable material and shall have 4 sides, a roof, and a flat solid
16 floor.

17 (b) Its interior shall be readily accessible by all dogs kept in the primary enclosure.

18 (c) It shall be large enough to accommodate, without crowding, all dogs kept in the
19 primary enclosure. The shelter shall be large enough so that all of the dogs in the primary
20 enclosure can turn around and lie down when all of those dogs are in the shelter.

21 (d) It shall be tall enough to allow the tallest dog in the primary enclosure to stand
22 normally and comfortably in the shelter.

23 (e) It shall be constructed and maintained to do all of the following:

- 1 1. Prevent injury to dogs that use it.
- 2 2. Allow all dogs using it to retain or dissipate enough body heat for health and comfort.
- 3 3. Allow all dogs using it to remain dry and clean.
- 4 4. Give all dogs using it reasonable protection from predators.

5
6 **(6) TETHERING.** (a) A dog may not be tethered outdoors unless all of the following
7 apply:

- 8 1. The dog is of a breed that can tolerate tethering.
- 9 2. The dog can readily tolerate tethering, based on its age, health and physical condition.
- 10 3. The tethered dog can easily enter and lie down in a dog shelter that complies with sub.
11 (5).
- 12 4. The tethered dog is not a pregnant or nursing female.
- 13 5. The tether cannot become entangled with any object.
- 14 6. The tether has an anchor swivel.
- 15 7. The tether is at least 6 feet long and of sufficient length for the size of the dog.
- 16 8. The tether is attached to the dog by means of a non-tightening collar or harness of
17 sufficient size for the dog.

18 **(b)** Dogs may not be tethered outdoors at an animal control facility or animal shelter,
19 except that a dog may be temporarily tethered outdoors in compliance with par. (a) for not more
20 than 4 hours in any day. The responsible caretaker, or an individual implementing a caretaker's
21 written or oral instructions, shall be on the premises during the temporary tethering and shall
22 ensure that the tethering complies with par. (a).

23 **(7) RUNS AND EXERCISE AREAS.** (a) A dog kept outdoors shall have access, for at least
24 30 minutes each day, to a run or exercise area that meets all of the following requirements:

1 1. It shall be large enough for the dog’s size and temperament, considering the number
2 of dogs that may use the run or exercise area at any given time, and shall be large enough for the
3 dog to achieve a running stride.

4 2. It shall include a shaded area that is large enough, during all hours in which the run or
5 exercise area is used, to shade all dogs using the run or exercise area without crowding.

6 (b) A run or exercise area, under par. (a), is not required to include a dog shelter under
7 sub. (5) or a windbreak, unless the run or exercise area also serves as a primary enclosure.

8 **(8) FACILITY MAINTENANCE.** Outdoor facilities in which dogs are kept shall be
9 maintained to protect the health and safety of dogs kept in those facilities. Maintenance shall
10 comply with the following requirements:

11 (a) All excreta shall be removed from outdoor primary enclosures at least daily.

12 (b) Pests and parasites shall be controlled as necessary to maintain dog health and
13 comfort.

14 (e) All dogs shall have clean, dry and breed-appropriate bedding, or shall have a solid
15 resting place that is appropriate for the dog’s breed, age, health and physical condition, unless
16 alternative special arrangements are necessary for the dog’s health and safety.

17 **ATCP 16.26 Transporting dogs.** A person who is required to be licensed under s.
18 ATCP 16.02(1), and that person’s employees and agents, shall comply with the following
19 requirements related to the transportation of dogs:

20 **(1) PORTABLE ENCLOSURES.** A portable enclosure used to transport one or more dogs,
21 including any enclosure that is placed on or forms part of a transport vehicle, shall meet all of the
22 following requirements:

23 (a) It shall be constructed of water-resistant and cleanable material.

- 1 (b) It shall be designed to keep all dogs within the enclosure clean and dry.
- 2 (c) It shall be designed to protect the health and safety of all dogs in the enclosure.
- 3 (d) It shall have ventilation openings to ensure the comfort and health of all dogs in the
4 enclosure.
- 5 (e) It shall be securely closed when in use.
- 6 (f) It shall be cleaned and sanitized between occupancy by different dogs, and more
7 often as necessary to keep it in a clean condition.
- 8 (g) When on a transport vehicle, it shall be all of the following:
- 9 1. Positioned so that each dog in the enclosure has access to sufficient air for normal
10 breathing.
- 11 2. Positioned so that the opening through which dogs enter and exit the enclosure is
12 accessible at all times for emergency removal of dogs from the enclosure.
- 13 3. Positioned so that all dogs in the enclosure are protected from the elements.
- 14 4. Positioned or protected so that no dog in the enclosure is exposed to excreta falling
15 from above.
- 16 5. Secured as necessary to prevent reasonably foreseeable movement that may injure
17 dogs.
- 18 **(2) CARE OF DOGS DURING TRANSPORT.** The following standards apply to dogs that are
19 being transported:
- 20 (a) Each dog shall at all times be protected from hypothermia and hyperthermia.
21 Transportation vehicles shall be heated or cooled, if necessary, to comply with this paragraph.
- 22 (b) Each dog shall have sufficient space to turn, stand and lie down, except that this
23 requirement does not apply to dogs transported during dog training, dog trialing and hunting.

1 (c) Each dog shall be provided with food and water, according to the standards in s.
2 ATCP 16.20(1).

3 (d) Dogs shall be separated from each other if separation is required by s. ATCP
4 16.20(6).

5 (e) Each dog shall be visually inspected every 4 hours.

6 (f) Each dog carried in a transport vehicle shall be removed from the vehicle at least
7 once every 12 hours, and be allowed to urinate, defecate and exercise, unless the vehicle is
8 equipped to meet the urination, defecation and exercise needs of all dogs being transported.

9 (g) Each dog carried in a transport vehicle shall be removed in a timely fashion from that
10 vehicle when the vehicle reaches the destination to which it is transporting the dog, so that the
11 dog can urinate, defecate and exercise.

12 **(3) TRANSPORT VEHICLES.** The following standards apply to a transport vehicle that is
13 used to transport dogs:

14 (a) The vehicle shall provide fresh or filtered air as necessary, without injurious drafts, to
15 all dogs that are transported in the vehicle.

16 (b) The dog cargo space shall be constructed and maintained to minimize the ingress of
17 exhaust from the vehicle's engine.

18 **ATCP 16.28 Prohibited conduct.** No person who is required to be licensed under s.
19 ATCP 16.02(1) may do any of the following, either directly or through an employee or agent:

20 (a) Prevent a department employee from performing his or her official duties under this
21 chapter, or interfere with the lawful performance of those duties.

22 (b) Physically assault a department employee while the employee is performing his or
23 her official duties under this chapter.

1 (c) Refuse or fail, without just cause, to produce required records or respond to a
2 department subpoena or investigative demand related to any matter under this chapter.

3 (d) Violate ss. 95.13 or 95.19, Stats.

4 (e) Accept custody or control of a dog from any person, knowing that the person is
5 required to be licensed under s. ATCP 16.02(1) to convey custody or control of that dog but is
6 not licensed, unless all of the following apply:

7 1. The person accepts custody or control of the dog to protect its health, safety or
8 welfare.

9 2. The person promptly reports the acceptance to the department, and provides any
10 relevant information that the department requests concerning the transaction.

11 **NOTE:** A person may make a report under par. (e)2. to the following address:

12
13 Wisconsin Department of Agriculture, Trade and Consumer Protection
14 Division of Animal Health
15 P.O. Box 8911
16 Madison, WI 53708-8911
17 Phone: (608) 224-4872
18 Fax: (608) 224-4871

19 **ATCP 16.30 Variances.** The department may, in response to a written request, grant a
20 variance from a standard under s. ATCP 16.22, 16.24 or 16.26 if the department finds that the
21 variance is reasonable and necessary under the circumstances and will not compromise the
22 purpose served by the standard. The variance shall be issued in writing, shall include the
23 department's findings, and shall include the specific terms of the variance including any time
24 limit on the variance. A request for a variance shall include information to show that the
25 variance is justified under this section.

1 **SECTION 3. EFFECTIVE DATE:** This rule takes effect on the first day of the month
2 following publication in the Wisconsin administrative register, as provided in s.
3 227.22(2)(intro.), Stats.

Dated this _____ day of _____, _____.

WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By _____
Secretary