

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

PROPOSED ORDER

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

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

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

Statutory Authority: Wis. Stat. s. 95.20

Explanation of Agency Authority

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

Related Statutes and Rules

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

Plain Language Analysis

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

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

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

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

Summary of Comments Received during Hearing and Comment Period

Hearing and Comment Period

The department held a public hearing on the preliminary rule draft on January 10, 2023, with comments accepted through January 24, 2023. The hearing offered a combination of in-person access and remote access. There were no attendees at the public hearing and there were no written comments received.

Rules Clearinghouse

The department modified the rule to address all Clearinghouse comments.

In response to Clearinghouse comments related to form, style and placement in Administrative Code, the department modified the placement of new language from s. ATCP 10.80 (2) (d) to s. ATCP 10.80 (2) (bm).

In response to Clearinghouse comments related to conflict with or duplication of existing rules, the department added the term “rabies vaccination” for clarification in s. ATCP 10.80 (2) (bm).

The statement of scope (SS 055-22) is specific to s. ATCP 10.80 (2) and rabies vaccination requirements and does not include certificates of veterinary inspection (CVIs). Section ATCP 10.80 (2) (bm) refers to s. 95.21 (2), Stats., which pertains to rabies vaccination requirements and not CVIs. Sections ATCP 10.80 (1) (intro.) and (3) refer to CVIs. A CVI is a written certificate that indicates that a veterinarian has examined an animal and found that there are no signs of an infectious or contagious disease, except where noted. A CVI is typically required for import into the State, except as stated under s. ATCP 10.80 (3). If a dog is required to be vaccinated under s. 95.21 (2), Stats., then the vaccination information is noted on the CVI.

Section 95.21 (2) (a), Stats., includes an exemption to rabies vaccination requirements as provided in s. 95.21 (9) (d), Stats., which states that “A city, village, or town may exempt the owner of a dog from the requirement to have the dog vaccinated against rabies for a year based on a letter from a veterinarian stating that vaccination is inadvisable because of a reaction to a previous vaccination, a physical condition, or a regiment of therapy that the dog is undergoing. The city, village, or town shall require the owner to provide a new letter for each year in which the owner seeks an exemption under this paragraph.” In the rare event that an unvaccinated dog is imported directly to a veterinary facility for treatment lasting longer than 30 days, the dog would likely qualify for an exemption under s. 95.21 (9) (d), Stats.

Comparison with Rules in Adjacent States

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

Illinois

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

Iowa

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

Michigan

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

Minnesota

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

Summary of Factual Data and Analytical Methodologies

The current language of s. ATPC 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to an import of dogs five (5) months of age or older, whereas the statute allows for a rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATPC 10.80 (2) to align with s. 95.21, Stats.

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

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

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

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

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

Email at Bradford.Steine1@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

Angela Fisher
Division of Animal Health
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
(608) 219-5761
Angela.Fisher1@wisconsin.gov

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

All comments received on or before January 24, 2023 were considered and included in the record of rule-making proceedings.

RULE TEXT

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

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

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

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

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

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

(END OF RULE TEXT)

Dated this _____ day of July, 2023

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary