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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-121

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]**

#### 1. Statutory Authority

a. In s. ATCP 10.08, since the statutory origin for this provision appears to be s. 169.04 (2) (d), Stats., this section should be noted in the list of statutory authority and statutes interpreted provided in the rule analysis.

b. It appears that ss. 95.68, 95.69, and 95.71, Stats., should be added to the list of statutory authority and the statutes interpreted in the rule analysis for the changes the rule makes to ch. ATCP 12.

#### 2. Form, Style and Placement in Administrative Code

a. In s. ATCP 10.07 (7), “pet birds” are considered domestic animals under s. 169.01 (7), Stats., but the term “pet birds” is not defined in the rule. It is suggested that “pet birds” be defined in the definitions section of ch. ATCP 10 as having the meaning given in s. 169.01 (25m), Stats.

b. In s. ATCP 10.50 (2) (b) (intro.), the phrase “one of” should be inserted before the phrase “the following” in order to be consistent with current text.

c. In s. ATCP 10.61 (9) (a) (intro.), (b) (intro.), and (c) (intro.), “all of” should be inserted between “keep” and “the.”

d. In s. ATCP 10.615 (6) (b) (intro.), “all of” should be inserted between “Keep” and “the.” In subs. (5) and (6) (intro.), “this section” should be changed to “sub. (2).”

- e. It appears that s. ATCP 11.51 (1) (c) should be renumbered sub. (1) (b) 3.
- f. In s. ATCP 11.55 (1) (intro.), the phrase “all of” should be inserted before the phrase “the following information.”
- g. In s. ATCP 11.55 (1m) (a), the parentheses around “APHIS form VS 1-27, or an equivalent form approved by the department” should be deleted and replaced with commas.
- h. In s. ATCP 11.55 (2) (a) 3., the second occurrence of the word “that” should be replaced by the word “than.”
- i. In s. ATCP 11.595 (1) (b), it appears that subd. 2. is unnecessary given the definition of the term “wild animal” in s. ATCP 11.01 (84e).
- j. In s. ATCP 12.01 (1a), the definition of “animal dealer” should be changed to “has the meaning given in s. 95.69 (1) (c), Stats., and who is required to be licensed under s. ATCP 12.03 (1).” In sub. (1g), the definition of “animal market” should be changed to “has the meaning given in s. 95.68 (1) (ag), Stats.” In sub. (1m), the definition of “animal transport vehicle” should be changed to “has the meaning given in s. 95.71 (1) (dm), Stats., and is required to be registered under s. ATCP 12.045 (1).”
- k. In SECTION 82, the notation “(17) and” should be deleted.
- l. In SECTION 87, the notation “12.04, 12.045, 12.05 and” should be deleted.
- m. In s. ATCP 12.02 (4) (c) and (d), “an animal market operator” should be changed to “a person.” In sub. (4) (d), the phrase “of sub. (1), (2) (c) or (2) (d)” should be added at the end of the sentence. In sub. (6) (intro.), the phrase “under sub. (3)” should be inserted between “application” and “within.”
- n. In s. ATCP 12.03 (5) (c), “animal dealer” should be changed to “person.” In sub. (5) (d), the phrase “of sub. (1)” should be added at the end of the sentence.
- o. In s. ATCP 12.04 (1), the phrase “A licensed animal market operator or animal dealer” should be replaced with the phrase “An animal market operator licensed under s. ATCP 12.02 or an animal dealer licensed under s. ATCP 12.03.” In sub. (4) (d), the phrase “of sub. (1)” should be added at the end of the sentence.
- p. In s. ATCP 12.045 (1), the phrase “No animal market operator, animal dealer or animal trucker” should be replaced by the phrase “No animal market operator licensed under s. ATCP 12.02, animal dealer licensed under s. ATCP 12.03, or animal trucker licensed under s. ATCP 12.04.” In sub. (3) (d), the phrase “violation of sub. (1)” should be added at the end of the sentence.
- q. In s. ATCP 12.045 (6) (e), it would be helpful to add a note indicating how the reader may discover what disinfectants have been approved by the department.
- r. In s. ATCP 12.06 (1) (intro.), it appears that “all of” should be inserted between “include” and “the.” Subsection (1) 1. to 9. should be renumbered (1) (a) to (i).

### **3. Conflict With or Duplication of Existing Rules**

a. The notes after ss. ATCP 11.11 (1) (b) 2. and 11.20 (1) (b) 2., provide that s. ATCP 11.04 prohibits the “operator of a federally approved livestock import market from releasing an imported bovine animal or swine, except to slaughter,” unless the animal meets the specified requirements. However, s. ATCP 11.04 (3) states that an operator of a federally approved livestock market may not release any animal from that market to a “Wisconsin destination” unless it meets specified requirements. Are these statements inconsistent with respect to the release to slaughter of an imported bovine animal?

b. In s. ATCP 11.02 (1) (b) 8., a certificate of veterinary inspection is not required under par. (a) for fish that are exempt under s. ATCP 11.58 (14). However, no exemption exists in s. ATCP 11.58 (14). Can the department clarify this section?

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. ATCP 10.51 (3), the phrase “to the department” should be inserted between “proof” and “to.”

b. In s. ATCP 10.61 (1m) (a), a person holding a registration certificate under sub. (1) may possess, propagate, kill, and exhibit farm-raised deer kept at the registered premises, and under par. (b), may not sell or offer others the opportunity to hunt farm-raised deer on the registered premises unless that person complies with s. ATCP 10.615. Under s. 95.55 (3m) (a), Stats., a person registered under this section may possess, propagate, purchase, sell, hunt, kill, and exhibit farm-raised deer, and under par. (b), may hunt or sell or offer to sell the opportunity to hunt farm-raised deer that the person owns. It appears that a person holding a registration certificate is authorized under the statute to hunt farm-raised deer kept at the registered premises. Can the department explain why hunting by the certificate holder is not included under this section of the rule?

c. Section ATCP 10.615 (1) (c) provides that “Farm-raised deer, when hunted, have unimpeded access to at least 80 acres of land.” Section 95.55 (5) (b), Stats., specifies that “no farm-raised deer may be hunted unless the deer to be hunted are confined in an area of 80 contiguous acres or more.” It therefore appears that the word “contiguous” should be added between “80” and “acres.” This problem also occurs in sub. (2) (b) 3. In sub. (3), the phrase “on the person’s hunting preserve” should be added at the end of the last sentence.

d. In s. ATCP 11.02 (4) (a), the phrase “other animals” in the second sentence might be clearer if it were changed to “animals not listed in this paragraph.”

e. In s. ATCP 11.40 (1) (a) 2., should “and” be changed to “or”?

f. In s. ATCP 11.595 (4) (b) 2., can the department be more specific about what a “bona fide research facility” might be?

g. In s. ATCP 12.02 (8) (g), it appears that the word “premises” should be deleted given the definition of the term “animal market” in s. ATCP 12.01 (1g).

- h. In s. ATCP 12.03 (4) (intro.), “of” should be inserted between “all” and “the.”