



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-009

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 January 2005.]

2. Form, Style and Placement in Administrative Code

a. In the preface to the rule, the information regarding the agency contact person also should include a deadline for submission of comments. [See s. 1.02 (2) (a) 12., Manual.]

b. Several telephone numbers for use in contacting the department are included in s. ATCP 10.07 (2) (d). The mailing address of the department is also included in this provision. It would be preferable to use a note to list these telephone numbers and addresses so that they can be changed readily later, as necessary, without using the rule-drafting process.

c. Section ATCP 10.07 (3) (a) provides that the state veterinarian may issue a written import permit waiving import requirements if he or she determines that special conditions justify the waiver. There are a number of similar provisions in the rule. [See, for example, s. ATCP 10.37 (5).] An attempt should be made to craft a standard by which these waivers may be measured. For example, a waiver could be granted if the impact on public health will not be adversely affected.

d. In s. ATCP 10.11 (4), the phrase “in its discretion” is unnecessary and should be deleted. A word search of the rule can locate the few additional instances where the use of this phrase occurs. [For example, see s. ATCP 10.19 (3) (b).]

e. In s. ATCP 10.29 (8) (a) (intro.) and (9) (intro.), the phrase “all of” should be inserted before the phrase “the following.” [For the most part, the rule appropriately makes use of these phrases. However, there are occasions where the appropriate format is not used. See,

for example, ss. ATCP 10.36 (4) (e) 1. (intro.), 10.40 (4) (intro.), and 10.41 (5) (intro.) and (d) (intro.).]

f. If the note following s. ATCP 10.35 (4) (e) is intended to be a requirement, it should be placed in the text of the rule. [See, also, the note following sub. (5) (c).]

g. In s. ATCP 10.40 (1) (a) and (c), the use of the word “currently” is vague and unnecessary and should be deleted.

h. Section ATCP 10.60 (4) provides that the definition of the term “ornamental fish” includes fish that the department designates in writing. When the department determines that additional fish are “ornamental fish,” the rule should be amended appropriately.

4. Adequacy of References to Related Statutes, Rules and Forms

The rule makes frequent references to forms provided by the department, but intermittently complies with the requirements of s. 227.14 (3), Stats. Perhaps a general note preceding ch. ATCP 10 or its individual subchapters could be included to describe how copies of forms can be obtained.

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

a. The definition of “animal market” in s. ATCP 10.01 (5) is a place where animals are kept, fed, and watered “prior to” sale. Is it possible that an animal may be kept for a period of time on the premises after a sale? If so, this should be included in the definition. Otherwise, the premises is no longer an animal market once the sale is completed, whether or not animals are kept there.

b. The definition of “originates from a state” in s. ATCP 10.01 (76) includes a state in which the animal has been kept for at least 120 days. Should the rule require that these 120 days be consecutive? Should the rule require that these 120 days must occur immediately prior to shipment of the animal to Wisconsin?

c. In the notes to ss. ATCP 10.11 (3), 10.13 (3), and 10.15 (4), it appears that the second sentence is an incomplete sentence.

d. In s. ATCP 10.21 (1) (b) 1., must the breed association registration number be placed on the animal?

e. The title to s. ATCP 10.30 should be made consistent with the title to that section as shown in the table of contents to ch. ATCP 10.

f. The term “micro pigs” is used in s. ATCP 10.30 (2) (b) 4. and at several other places in the rule. Should this term be defined?

g. The rule related to farm-raised deer, in s. ATCP 10.46 (5) (e) requires a person to adopt and implement “appropriate bio-security measures.” Should the rule specify appropriate

biosecurity measures or indicate how a person can determine what are the appropriate biosecurity measures?

h. The rule regarding farm-raised deer in s. ATCP 10.46 (13) (a) uses the term “dead tag.” This term occurs in several other places in the rule. Should the rule define or describe what is meant by this term?

i. The rule regarding fish farms in s. ATCP 10.61 (10) (a) 4. refers to a “class” of fish or fish eggs. Can this term be clarified?

j. In s. ATCP 10.82 (4) (a), a comma should appear after the notation “par. (b).”