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Chapter ATCP 16

DOG SELLERS AND DOG FACILITY OPERATORS

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

ATCP 16.01 Definitions. In this chapter:

(1) "Accredited veterinarian" has the meaning given in s. ATCP 10.01 (2).

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

(3) "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.

(4) "Department" means the Wisconsin department of agriculture, trade and consumer protection.

(5) "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. A person has bred and raised dogs for purposes of this paragraph if that person has owned the dogs from birth until sale, regardless of whether the person has contracted with an agent to raise the dogs on real estate owned or occupied by that agent.

(6) "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.

(7) "Dog dealer" means any of the following persons, other than an out–of–state dog dealer:

(a) 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.

(b) 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.

(c) 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.

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

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

(10) "License year" means a 12–month period ending on September 30.

(11) "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.

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

(13) "Primary enclosure" means an enclosed space where a dog spends the majority of its time.

(14) "Sell" means to convey ownership for consideration.

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

(16) "Wisconsin certified veterinarian" means a veterinarian certified under s. ATCP 10.05.

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ATCP 16.02 Dog sellers and dog facility operators; license. (1) LICENSE REQUIRED. Except as provided in s. ATCP 16.04, no person may do any of the following in any license year without an annual license from the department:

(a) Operate an animal control facility.

(b) Operate an animal shelter.

(c) Operate as a dog breeder.

(d) Operate a dog breeding facility.

(e) Operate as a dog dealer.

(f) Operate as an out–of–state dog dealer.

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

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

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

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

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11.

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

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(1) VETERINARIAN. A veterinarian who 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.

(2) 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:

(a) The person notifies the department of the proposed liquidation sale at least 30 days prior to the start of the sale. The notice shall 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.

(b) 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 location identified under par. (a).

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

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

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

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

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

(a) Gives the department written notice of the temporary dog market, at least 10 days prior to the start of the market. The notice shall 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.

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

(c) 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.

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

1. The person's name and address.

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

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

4. A description of each dog that the person brings to the market, including the dog's breed or type, sex, date of birth, or approximate age, color, and any distinctive markings. If the person brings a dog on behalf of another person, or brings a dog that the person has purchased from another person, the description shall indicate that fact and shall include the name and address of that other person.

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

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

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

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

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

(2) The applicant's principal business address.

(3) The address of each location, other than the residence of a home custody service provider under s. ATCP 16.14 (2), at which the applicant may keep dogs in this state pursuant to the license. If an identified location is an animal control facility, animal shelter or dog breeding facility, the application shall disclose that fact.

(4) A statement indicating whether, in connection with the applicant's licensed operation, the applicant may consign any dogs to individuals for home custody under s. ATCP 16.14 (2).

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

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

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

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

(a) 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.

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

Note: A person may obtain a license for by calling (608) 224–4872, by visiting the department website at www.datcp.wi.gov or by writing to the following address:
Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708–8911

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11; corrections in (3) and (4) made under s. 13.92 (4) (b) 7., Stats., Register May 2011 No. 665.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11.

ATCP 16.10 Issuing or withdrawing a license. **(1)** TIMELY ACTION ON LICENSE APPLICATION. The department shall grant or deny a license application under s. ATCP 16.06 within 30 business days after all of the following have occurred:

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

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

(2) DENYING, SUSPENDING OR REVOKING A LICENSE. (a) The department may deny a license application under s. ATCP 16.06 or suspend or revoke a license issued under s. ATCP 16.02 (1) 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ATCP 16.14 Records kept by license holders. **(1)** GENERAL. A person who is required to be licensed under s. ATCP 16.02 (1) shall keep all of the records required under this section. The person shall keep the records, in written or readily readable electronic form, at the principal business location identified under s. ATCP 16.06 (2). The person shall retain the records for at least 5 years after they are made, and shall make them available to the department for inspection and copying upon request.

(2) DOG LOCATIONS. A person licensed under s. ATCP 16.02 (1) shall keep a record of each location at which dogs are kept pursuant to the license. The record shall include the address of each location, and the name of the individual responsible for administering that location. If the license holder consigns a dog to a home custody provider, the license holder shall record the name and address of that individual.

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

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

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

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

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

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

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

2. 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 United States department of agriculture animal care facility license or registration number if any.

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

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

2. The disposition of the dog.

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

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

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

(i) Breed registration records if any.

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

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11; correction in (2) made under s. 13.92 (4) (b) 7. Stats., Register May 2011 No. 665.

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

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

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

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

Note: Wisconsin certificate of veterinary inspection forms may be obtained for $0.60 each. Forms may be obtained online at: http://www.onlineservices.datcp.wi.gov/vetcatalog or by contacting the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708–8911
Phone: (608) 224–4872
Fax: (608) 224–4871

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

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

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

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

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

1. The name of the vaccine manufacturer.

2. The vaccine serial number and lot number.

3. The date on which the vaccine was administered.

4. The name of the person who administered the vaccine.

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

(f) 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 sale using a test method approved by the department.

Note: Approved brucellosis test methods may be obtained by contacting the department online at: http://www.datcp.wi.gov or by contacting the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708–8911
Phone: (608) 224–4872
Fax: (608) 224–4871

(g) 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."

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

(5) ISSUANCE AND EXPIRATION. (a) A veterinarian who signs a certificate of veterinary inspection under sub. (1) shall sign that 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 on which the veterinarian completes the examination on which the certificate is based.

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

(a) The person buying the dog.

(b) The person selling the dog.

(c) The veterinarian who issues the certificate.

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

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

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

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

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

> "The (*identify pertinent information incorporated from the prior certificate*) on this certificate has been copied from the attached certificate of veterinary inspection issued by (*name of veterinarian who issued the prior certificate*) at (*address*) on (*date*)."

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11.

ATCP 16.18 Age at which dogs may be sold. A person who is required to be licensed under s. ATCP 16.02 (1) 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:

(1) The dog is at least 7 weeks old.

(2) The dog is accompanied by its dam.

(3) The department approves the transfer in writing.

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ATCP 16.20 Dog care; general. The following standards of care apply to all dogs kept pursuant to a license under s.

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ATCP 16.02 (1), including any dogs that the license holder consigns to a home custody provider:

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

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

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

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

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

(f) Water containers, non–disposable food containers and non–disposable utensils 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.

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

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

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

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

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

(f) Sick, diseased or injured dogs shall be provided with timely veterinary care or shall be euthanized by a method described in *Appendix 1* to the *Guidelines on Euthanasia* published by the American Veterinary Medical Association (June 2007).

Note: Copies of Appendix 1 to the Guidelines on Euthanasia published by the American Veterinary Medical Association (June 2007) are on file with the department and may be obtained online at http://www.avma.org/issues/animal welfare/euthanasia.pdf or from the American Veterinary Medical Association at the following address:

American Veterinary Medical Association
1931 N. Meacham Rd
Suite 100
Schaumburg, IL 60173–4360

(g) The department may, by written notice, require a person holding a license under s. ATCP 16.02 (1) to submit a dog for examination by a licensed veterinarian within a specified time period if the department finds, based on its inspection, that the dog is exhibiting signs of illness, injury, or neglect.

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

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

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

1. The license holder was using that facility solely for that purpose on June 1, 2011, and any primary enclosures added or materially reconstructed since that date comply with ss. ATCP 16.22 and 16.24.

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

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

4. The dogs are kept in enclosures that comply with 9 CFR, Chapter I, subchapter A (animal welfare).

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

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

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

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

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

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

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

(c) All dogs shall 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.

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

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

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11.

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

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

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

1. Dirt floors are prohibited.

2. A floor, other than a floor in the portion of a whelping enclosure that is accessible to puppies, may be constructed of metal wire mesh. The wire shall be coated with an acceptable material to prevent injury to the dogs' feet. The wire shall 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.

Note: Stainless steel slatting is not wire mesh.

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

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

(c) *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:

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

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

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

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

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

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

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

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

1. For a dog up to 10 inches long, 4.5 square feet.
2. For a dog 11 to 16 inches long, 8 square feet.
3. For a dog 17 to 22 inches long, 12 square feet.
4. For a dog 23 to 26 inches long, 18 square feet.
5. For a dog 26 to 30 inches long, 24 square feet.
6. For a dog more than 30 inches long, 30 square feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) 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.

(7) LIGHTING, TEMPERATURE AND VENTILATION. (a) An indoor facility shall 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 shall have a diurnal lighting cycle.

(b) An indoor facility shall have adequate heating and cooling facilities, and shall 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 shall be protected from heat, cold and humidity that may be injurious to their health.

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

(c) An indoor facility shall be adequately ventilated with fresh or filtered air to maintain the health and comfort of all dogs and

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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.

(8) 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.

History: CR 10–100: cr. Register May 2011 No. 665, eff. 6–1–11; correction in (8) made under s. 13.92 (4) (b) 1., Stats., Register May 2011 No. 665.

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:

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

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

(2) OUTDOOR PRIMARY ENCLOSURE; MINIMUM AREA. The area of an outdoor primary enclosure, not counting the area of any dog shelter under sub. (5), shall 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:

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

1. For a dog up to 10 inches long, 4.5 square feet.
2. For a dog 11 to 16 inches long, 8 square feet.
3. For a dog 17 to 22 inches long, 12 square feet.
4. For a dog 23 to 26 inches long, 18 square feet.
5. For a dog 26 to 30 inches long, 24 square feet.
6. For a dog more than 30 inches long, 30 square feet.

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

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

(3) OUTDOOR PRIMARY ENCLOSURE; CONSTRUCTION. An outdoor primary enclosure shall 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 shall be at least 12 inches above the standing height of the tallest dog kept in the primary enclosure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. It shall 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 shall be large enough for the dog to achieve a running stride.

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

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

(8) FACILITY MAINTENANCE. Outdoor facilities in which dogs are kept shall be maintained to protect the health and safety of

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dogs kept in those facilities. Maintenance shall comply with the following requirements:

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

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

(c) 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.

History: CR 10−100: cr. Register May 2011 No. 665, eff. 6−1−11; correction in (8) (c) made under s. 13.92 (4) (b) 1., Stats., Register May 2011 No. 665.

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

(1) 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, shall meet all of the following requirements:

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

(b) It shall be designed to keep all dogs within the enclosure clean and dry.

(c) It shall be designed to protect the health and safety of all dogs in the enclosure.

(d) It shall have ventilation openings to ensure the comfort and health of all dogs in the enclosure.

(e) It shall be securely closed when in use.

(f) It shall be cleaned and sanitized between occupancy by different dogs, and more often as necessary to keep it in a clean condition.

(g) When on a transport vehicle, it shall be all of the following:

1. Positioned so that each dog in the enclosure has access to sufficient air for normal breathing.

2. 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.

3. Positioned so that all dogs in the enclosure are protected from the elements.

4. Positioned or protected so that no dog in the enclosure is exposed to excreta falling from above.

5. Secured as necessary to prevent reasonably foreseeable movement that may injure dogs.

(2) CARE OF DOGS DURING TRANSPORT. The following standards apply to dogs that are being transported:

(a) Each dog shall at all times be protected from hypothermia and hyperthermia. Transportation vehicles shall be heated or cooled, if necessary, to comply with this paragraph.

(b) Each dog shall have sufficient space to turn, stand and lie down, except that this requirement does not apply to dogs transported during dog training, dog trialing, and hunting.

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

(d) Dogs shall be separated from each other if separation is required by s. ATCP 16.20 (5).

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

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

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

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

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

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

History: CR 10−100: cr. Register May 2011 No. 665, eff. 6−1−11; correction in (2) (d) made under s. 13.92 (4) (b) 7., Stats., Register May 2011 No. 665.

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

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

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

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

(4) Violate s. 95.13 or 95.19, Stats.

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

(a) The person accepts custody or control of the dog to protect its health, safety or welfare.

(b) The person promptly reports the acceptance to the department, and provides any relevant information that the department requests concerning the transaction.

Note: A person may make a report under sub. (5) (b) to the following address:
Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Animal Health
P.O. Box 8911
Madison, WI 53708−8911
Phone: (608) 224−4872
Fax: (608) 224−4871

History: CR 10−100: cr. Register May 2011 No. 665, eff. 6−1−11; corrections in (1), (2), (3), (4), (5) made under s. 13.92 (4) (b) 1., Stats., Register May 2011 No. 665.

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

History: CR 10−100: cr. Register May 2011 No. 665, eff. 6−1−11.