

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

- 1 The Wisconsin department of agriculture, trade and consumer protection proposes the following
2 order *to create* ch. ATCP 16, *relating to* the licensing and regulation of dog dealers, dog
3 breeders, dog breeding facilities, animal control facilities and animal shelters.

**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 legal 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.

License Exemptions

The following activities are exempt from licensing under this rule:

- *Veterinary activities.* A veterinarian licensed under ch. 453, Stats., is not required to hold a license under this rule for activities that the veterinarian conducts in the normal course of veterinary practice, within the scope of the veterinarian’s license.
- *One-time liquidation sale.* No license is required under this rule for a one-time liquidation sale of dogs that the seller owns and keeps at a location owned by the seller if all of the following apply:
 - The seller gives DATCP written notice at least 30 days prior to the sale. The notice must include the starting date of the sale, the location of the sale, and the number of dogs that may be sold.
 - All dogs at the sale location are offered for sale.
 - No more than 30 dogs are offered for sale.
 - The seller does not add dogs during the sale, or include in the sale any dogs that the seller does not own.
 - The seller does not engage in any other activities for which a license is required, either during the license year in which the sale occurs or in the preceding or subsequent license year.
- *Temporary dog market.* No license is required under this rule to operate a “temporary dog market” (a place where dog owners sell dogs from temporary booths or spaces that they rent from the market operator), provided that the market operator does all of the following:

- Gives DATCP prior written notice of the market. The notice must include the beginning and ending dates of the market, the market location, and the approximate number of sellers who may bring dogs to the market.
- Provides adequate facilities for, 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 more than 2 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 market during market hours.

Licensed Activities and Facilities

In some cases, a person may engage 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, that 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 the license holder keeps dogs pursuant to the license. License fees are based on the number of dogs sold by the license holder

A license holder may not keep dogs for any licensed purpose, either directly or placed with another person, at any location other than the following:

Locations identified in the license.

Locations identified in the application of persons, not licensed by the department, who will hold dogs for the license holder.

- A “temporary dog market” that is registered and operated according to this rule.
- An auction location at which dogs are temporarily kept for the purpose of sale at auction, other than an auction conducted by the license holder.

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 trade 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, including those not owned or legally controlled by the applicant, with a statement of that fact.
- A statement indicating whether the applicant operates any “animal control facility,” “animal shelter” or “dog breeding facility” and, if so, the type and address of each facility.
- 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 agent 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,” “animal shelter” or both.
- The following license fee based on the number of dogs sold from any location other than from an “animal control facility,” or an “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 30 business days after it receives a complete license application except that, if the applicant seeks authorization 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 location on the license at which a person engages in any activity for which a license is required under this rule. 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. DATCP may also inspect, during reasonable hours, any location listed on the application for holding animals for the license holder, only as necessary to ensure compliance with this chapter.

Whenever DATCP inspects a location under this rule, DATCP must give the operator a copy of its inspection report. The facility operator must post a copy of the most recent inspection report in a prominent place at the inspected 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:

- *Dog records.* The following records related to each dog that comes under the license holder's custody or legal control, including any dog placed with another person not licensed by DATCP (see above):
 - A description of the dog including the dog's breed or type, sex, date of birth or approximate age, color, and distinctive markings.
 - Any USDA official identification assigned to the dog, including any official identification tag, tattoo or microchip information.
 - A statement that the dog was born under the license holder's custody or legal control, if that is the case.
 - All of the following information if the dog was not born under the license holder's custody or legal control:
 - * The date on which the license holder acquired custody or legal control over the dog.
 - * The identity of the person from whom the license holder acquired custody or legal control of the dog, including all of the following:
 - * The person's name and address, including state of residence.
 - * The person's 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 legal control:
 - * The date on which the dog left the license holder's custody or legal control.
 - * The disposition of the dog.

- * The identity of the person, if any, to whom the license holder delivered custody or legal 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 legal control.
- Health records related to the dog, including vaccination, observation and treatment records, 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, as required by this rule (see below).

The license holder must keep the above records in written or readily readable electronic form. The records must be kept 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.
- The DATCP approves the transfer in writing.

Dog Care; General

A license holder (and the license holder’s employees and persons who keep dogs for the license holder at another unlicensed location) must comply with all of the following standards of care for dogs kept pursuant to the license:

- *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, and non-disposable food containers and utensils, must be cleaned with appropriate detergent and sanitized with an appropriate sanitizer, as often as necessary to be 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 trauma.
 - A caretaker, or an individual acting under a caretaker’s written or oral instructions, must perform daily body, mobility and behavior checks on each dog.
 - A dog with a communicable disease must be separated to minimize disease transmission to other susceptible 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). Entities licensed for breeding, raising or selling dogs only for the purpose of scientific research are exempt from housing and exercise requirements only if all of the following apply:
 - The dogs are sold from the 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.
 - The facility enclosure size complies with 9 CFR subchapter A (Animal Welfare).
 - No exemption is granted to any new facility or facility that is added to or remodeled.

- *Exercise:* Dogs must have reasonable daily exercise, based on the dog’s breed, size, age and health condition. Dogs must have a daily access to a run or exercise area where they can achieve a running stride. Repetitive unsupervised physical activity, restrictive of other activities, must be avoided.

- *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 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 enclosures; general requirements.* A “primary enclosure” is an enclosed space where a dog spends the majority of its time. A “primary enclosure” must meet one of the following general requirements:
 - *Enclosure for one or more dogs with 30 minutes of exercise,* The area of the primary enclosure 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:
 - * 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.

▪ The height of the primary enclosure must be at least 12 inches taller than the tallest dog in the enclosure.

• Each dog kept in the primary enclosure must have access, for at least 30 minutes each day, to a 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 any given time), and large enough so that the dog can achieve a running stride. *Enclosure for one dog with 240 minutes exercise* The area of the primary enclosure shall be at least equal to 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:

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

• The run or exercise area is 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 is large enough for the dog to achieve a running stride.

• The dog spends at least 240 minutes per day in the run or exercise area.

• *Whelping enclosure.* A primary enclosure for a single whelping dam and her puppies must comply with all of the following requirements, rather than the general requirements above:

- The enclosure must have a solid floor, where the puppies are kept, and be of an appropriate type for the breed.
- The enclosure must be tall enough for the dam to stand normally and comfortably,
- The enclosure must be large enough for the dam to lie down in a stretched out position, so that all puppies can simultaneously nurse.
- The enclosure must be large enough for the number and temperament of the puppies. The enclosure must be designed so there is an area that the dam can be physically inaccessible to the puppies and this area may have non-solid flooring in compliance with this section.

- *Nursery enclosure.* An primary enclosure for puppies between the age of weaning and the age of 4 months must comply with the following requirements, rather than the general requirements above:
 - The enclosure must be large enough to allow all of the puppies to turn around, stand up, lie down, and exercise normal postural movements.
 - The enclosure must be large enough to encourage socialization and exercise.

- *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 vinyl-coated.
 - * 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 safe from injury, clean and dry. Surfaces must be regularly cleaned and sanitized.

- *Stacking primary enclosures.* No indoor primary enclosure may 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 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.* Indoor facilities in which primary enclosures are located must meet all of the following requirements:
 - The facility 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.
 - The facility 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.

- The facility 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 with an appropriate detergent, then rinsed and sanitized with an appropriate sanitizer, as often as necessary to be 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.
 - All dogs shall be provided clean, dry, breed appropriate bedding that shall be maintained in a clean, dry condition.

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 shall 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) 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:
 - 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 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 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 shall 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 likely to cause heat stress, without crowding.
 - 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, shall be all of the following:
 - Made of a durable material, have 4 sides, a roof, and a flat solid floor.
 - Be big enough to accommodate all dogs kept in the primary enclosure without crowding, allow for the tallest dog to stand normally and comfortably and large enough for all dogs to turn around and lie down.
 - 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 for which tethering is considered reasonably appropriate.
 - 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. Tethering may not be used for any dog kept outdoors at an animal control facility or animal shelter.

- *Temporary tethering.* Occasional temporary tethering may be used but it must not exceed 4 hours per day and a responsible person must be on the premises during tethering and regularly check the dog for compliance with this subsection.
- *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 a 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. Maintenance must include all of the following:
 - 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.
 - All dogs shall be provided clean, dry, breed appropriate bedding that must be kept in a clean, dry condition.

Transporting Dogs

A license holder (and the license holder's employees and agents) 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 comply with this paragraph.
 - Each dog must have sufficient space to turn, stand, and lie down.
 - 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 the needs of all dogs being transported.
 - Each dog must be removed in a timely fashion from the transport vehicle when the vehicle reaches its destination, in order to meet each dog's needs..

- *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 chapter, 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, or who operate as “dog breeders,” “dog dealers” or “out-of-state dog dealers” in this state. Under 2009 Wis. Act 90, these 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 individuals that will be licensed and regulated under this rule, and veterinarians. 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, including comments for the hearing record (dates and times to be announced) may be directed to:

Melissa Mace
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone (608) 224-4883
E-Mail: Melissa.Mace@wi.gov

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 movement
3 of animals within this state, except as specifically provided in this chapter ~~or~~ ch. ATCP 12 or ch.
4 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

- 1 **ATCP 16.01 Definitions.**
- 2 **ATCP 16.02 Dog sellers and dog facility operators; license.**
- 3 **ATCP 16.04 License exemptions.**
- 4 **ATCP 16.06 Applying for a license.**
- 5 **ATCP 16.08 License fees and surcharges.**
- 6 **ATCP 16.10 Issuing or withdrawing a license.**
- 7 **ATCP 16.12 Inspecting licensed operations.**
- 8 **ATCP 16.14 Records kept by license holders.**
- 9 **ATCP 16.16 Dog sales; certificate of veterinary inspection.**
- 10 **ATCP 16.18 Age at which dogs may be sold.**
- 11 **ATCP 16.20 Dog care; general.**
- 12 **ATCP 16.22 Dogs kept indoors.**
- 13 **ATCP 16.24 Dogs kept outdoors.**
- 14 **ATCP 16.26 Transporting dogs.**
- 15 **ATCP 16.28 Prohibited conduct.**
- 16 **ATCP 16.30 Variances.**

17 **NOTE:** This rule applies to those persons required to be licensed under s. 173.41, Stats.

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

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

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

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

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

28 (5) “Dog breeder” means a person who in any license year sells at least 25 dogs, from
29 more than 3 litters, which that person has bred and raised in this state. A person has bred and
30 raised dogs for purposes of this paragraph if that person has owned the dogs from birth until sale,

1 regardless of whether the person has contracted with an agent to raise the dogs on real estate
2 owned or occupied by that agent.

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

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

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

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

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

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

19 (9) “License year” means a 12-month period ending on September 30.

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

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

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

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

6 **(14)** “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 **(15)** “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) LOCATIONS COVERED BY LICENSE.** A license, under sub. (1), does not authorize a
22 license holder, or the license holder’s employees, to keep dogs pursuant to the license at any
23 location other than the following:

- 1 (a) Locations identified in the license.
- 2 (b) Locations identified on the license holder’s application, pursuant to s. ATCP
3 16.06(3), where a person keeps dogs for the license holder subject to conditions specified under
4 s. ATCP 16.12(5), 16.14(2) and 16.20(intro.)
- 5 (c) A temporary dog market registered under s. ATCP 16.04(5).
- 6 (d) An auction location at which dogs are temporarily kept for the purpose of sale at
7 auction, other than an auction conducted by the license holder.

8 **(4) LICENSE EXPIRATION.** An annual license under sub (1) expires on September 30.

9 **(5) LICENSE NOT TRANSFERABLE.** A license under sub. (1) is not transferable between
10 persons or locations.

11 **(6) LICENSE DISPLAYED.** (a) A license holder under sub. (1) shall post a copy of the
12 license at each location, identified in the license, at which the license holder keeps dogs pursuant
13 to the license. The license holder shall post the license copy in a prominent place that is readily
14 visible to persons entering that location.

15 (b) A license holder under sub. (1) who advertises to sell dogs in this state shall include
16 that person’s license number in each advertisement.

17 **ATCP 16.04 License exemptions.** The annual license requirement under s. ATCP
18 16.02(1) does not apply to any of the following:

19 **(1) VETERINARY ACTIVITIES.** Activities conducted by a veterinarian, in the normal
20 course of veterinary practice, within the scope of the veterinarian’s license under ch. 453, Stats.

21 **(2) ONE-TIME LIQUIDATION SALE.** A one-time liquidation sale of dogs that the seller
22 owns and keeps at a location owned by the seller if all of the following apply:

1 (a) The seller notifies the department of the proposed liquidation sale at least 30 days
2 prior to the start of the sale. The notice shall identify the number of dogs that will be offered for
3 sale, the location at which all of those dogs are kept, and the starting date of the sale.

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

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

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

10 (e) The seller does not arrange or permit any sale, from the location identified under par.
11 (a) during the liquidation sale, of dogs that the seller does not own.

12 (f) The seller does not engage, during the license year in which the liquidation sale
13 occurs or in the next license year, in any activity for which a license is required under s. ATCP
14 16.02(1).

15 (g) The seller was not licensed under s. ATCP 16.02(1) during the preceding license
16 year.

17 **(3) TEMPORARY DOG MARKET.** The operation of a temporary dog market if the operator
18 does all of the following:

19 (a) Gives the department ten business days' prior written notice of the temporary dog
20 market. The notice shall include the location of the market, the beginning and ending dates of
21 the market, and the approximate number of sellers who may bring dogs to the market.

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

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

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

5 1. The person's name and address.

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

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

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

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

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

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

19 **ATCP 16.06 Applying for a license.** A person shall apply for a license under s. ATCP
20 16.02(1) on a form provided by the department. The application shall include all of the
21 following:

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

1 (2) The applicant’s principal business address.

2 (3) The address of each location at which the applicant may keep dogs in this state
3 pursuant to the license. If any of the identified locations is an animal control facility, animal
4 shelter or dog breeding facility, the application shall indicate that fact. If any of the identified
5 locations is a location, not owned or legally controlled by the applicant, but is where a person,
6 not licensed under s. 173.41, Stats., may keep dogs owned wholly or partially by the applicant,
7 the applicant shall indicate that fact.

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

10 (5) The total number of dogs that the applicant sold during the preceding license year
11 from all locations identified under sub. (3), other than an animal control facility or animal
12 shelter. If the applicant did not sell any dogs during the preceding license year, the applicant
13 shall report the total number of dogs that the applicant expects to sell during the license year for
14 which application is made.

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

16 (7) If the applicant applies to be licensed as an out-of-state dog dealer, copies of all of
17 the following:

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

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

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

1 **(1)** A license fee of \$125 for each animal shelter and/or animal control facility that the
2 applicant may operate during the license year.

3 **NOTE:** An applicant acting as both an animal shelter and animal control facility at a
4 single location has one license for both activities. An applicant who has multiple
5 locations for shelters and/or animal control facilities must have a license for each
6 location.

7 **(2)** For each person that sells dogs, as a dog breeder, dog breeding facility, and/or dog
8 dealer, that the applicant may operate as during the license year, the following fee based on the
9 number of dogs reported under s. ATCP 16.06(5) that have been or will be sold by that dogseller:

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

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

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

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

14 **NOTE:** The fee payment under sec. **(2)** is based on the total number of dogs sold by the
15 applicant, regardless of the number of locations from which the applicant makes
16 those sales.

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

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

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

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

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

1 **NOTE:** A surcharge payment under sub. (5) does not relieve the applicant of any other
2 penalties or liabilities that the applicant may incur as a result of any act or
3 omission under sub. (5), but does not constitute evidence of a law violation.
4

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

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

8 APPLICATION. The department shall grant or deny a license application, under s. ATCP 16.06,
9 within 30 business days, after all of the following have occurred:

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

12 (b) The department has completed any pre-license inspection required under s. ATCP
13 16.12(2).

14 **(2) DENYING, SUSPENDING OR REVOKING A LICENSE.** (a) The department may deny a
15 license application under s. ATCP 16.06 or suspend or revoke a license issued under s. ATCP
16 16.02(1) if the applicant or license holder fails to comply with applicable licensing requirements;
17 is not fit, qualified or equipped to conduct the activity for which the license is required; has
18 violated or failed to obey a relevant law, order, or regulation; or has misrepresented or failed to
19 disclose any material fact in a license application.

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

- 23 1. Specifies the reasons for the suspension, denial or revocation.
24 2. Notifies the applicant or license holder that he or she may request a hearing on the
25 denial, suspension or revocation by filing a written request with the department within 10 days

1 after receiving the notice. The department shall promptly consider the hearing request,
2 following the procedures set forth in ch. ATCP 1.

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

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

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

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

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

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

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

21 **ATCP 16.12 Inspecting licensed operations.** (1) **GENERAL.** The department may at
22 any time, at reasonable hours, inspect any place at which a person who is required to be licensed
23 under s. 16.02(1) engages in any activity for which a license is required.

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

5 **(3) BIENNIAL INSPECTIONS.** The department shall inspect, at least once in every 2 license
6 years, each location identified in the license at which a license holder is licensed to keep dogs.

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

10 **(5) INSPECTION OF OTHER LOCATIONS.** The department may, at reasonable hours,
11 inspect any of the identified locations, not owned or legally controlled by the license holder, but
12 where a person, not licensed under s. 173.41, Stats., may keep dogs owned wholly or partially by
13 the applicant, only as necessary to ensure the license holder's compliance with this chapter.

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

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

21 **(7) REINSPECTION FEES.** The department may charge, to the holder of a license under s.
22 ATCP 16.02(1), a reinspection fee of \$150 for a reinspection that the department makes to
23 determine whether that person has corrected a previous violation of this chapter, noted on a

1 previous inspection report. The department may not charge a reinspection fee under this
2 subsection for a routine or regularly scheduled inspection, or for an inspection that is required
3 under this chapter.

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

10 **(2) DOG RECORDS.** A person who is required to be licensed under s. ATCP 16.02(1) shall
11 keep all of the following records related to each dog that comes under that person's custody or
12 legal control, including records of dogs at any location identified in s. ATCP 16.06(3) :

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

15 (b) Any United States department of agriculture official identification assigned to the
16 dog, including any official identification tag, tattoo or microchip information.

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

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

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

22 2. The identity of the person from whom the license holder acquired custody or legal
23 control of the dog, including all of the following:

1 a. The person's name and address, including state of residence.

2 b. The person's United States department of agriculture animal care facility license or
3 registration number, if any.

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

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

7 2. The disposition of the dog.

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

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

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

14 (h) Breed registration records if any.

15 **(3) 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.

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

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

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

7 **NOTE:** Wisconsin intrastate forms may be obtained for \$0.60 each.

8 Forms may be obtained online at:

9 <http://www.datcp.state.wi.us/ah/vetsupplies/index.jsp>

10 or by contacting the department at the following address:

11 Wisconsin Department of Agriculture, Trade and Consumer Protection

12 Division of Animal Health

13 P.O. Box 8911

14 Madison, WI 53708-8911

15 Phone: (608) 224-4872

16 Fax: (608) 224-4871

17
18
19 **(4) CONTENTS.** (a) A certificate of veterinary inspection under sub. (1) shall include all
20 of the following information:

21 1. The name and address of the person selling the dog(s).

22 2. The breed, sex and age of the dog(s).

23 3. Whether the dog is spayed, neutered or sexually intact.

24 4. The dog's vaccination record. The vaccination record shall identify each type of
25 vaccination that the dog has received. For each type of vaccination, the record shall include all
26 of the following:

27 a. The name of the vaccine manufacturer.

28 b. The vaccine serial number and lot number.

29 c. The date on which the vaccine was administered.

1 d. The name of the person who administered the vaccine.

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

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

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

10
11 Wisconsin Department of Agriculture, Trade and Consumer Protection
12 Division of Animal Health
13 P.O. Box 8911
14 Madison, WI 53708-8911
15 Phone: (608) 224-4872
16 Fax: (608) 224-4871

17 7. The following statement, or a substantially similar statement, that is based on at least a
18 brief personal examination by the veterinarian making the statement:

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

24 8. The veterinarian's signature and the date of signature.

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

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

3 (a) The person buying the dog.

4 (b) The person selling the dog.

5 (c) The veterinarian who issues the certificate.

6 **(7) INFORMATION FROM ANOTHER CERTIFICATE.** If a dog is resold while the original CVI is
7 still valid, the CVI issued on the dog shall continue to accompany the dog (s). No new CVI is
8 required as long as the new seller information is recorded and copies are kept by the seller and
9 provided to the purchaser. If the certificate incorporates information from the prior certificate,
10 but is issued on a separate form, it shall include the following statement or a substantially similar
11 statement:

12 “The *(identify pertinent information incorporated from the prior certificate)* on this
13 certificate has been copied from the attached certificate of veterinary inspection
14 issued by *(name of veterinarian who issued the prior certificate)* at *(address)* on
15 *(date)*.”
16

17
18 **ATCP 16.18 Age at which dogs may be sold.** A person who is required to be licensed
19 under s. ATCP 16.02(1) may not, in connection with the sale of a dog, transfer that dog to the
20 physical custody of the buyer unless one of the following applies:

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

22 **(2)** The dog is accompanied by its dam.

23 **(3)** The department approves the transfer in writing.

24 **ATCP 16.20 Dog care; general.** A person who is required to be licensed under s.
25 ATCP 16.02(1), and all employees and persons who keep dogs for the license holder at another

1 location, shall comply with all of the following standards of care for all dogs kept pursuant to
2 that license:

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

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

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

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

12 (e) Food and water shall be provided under this subsection in durable containers, except
13 that food may be provided in disposable containers if discarded after each use.

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

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

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

22 (c) Any dog that has or is suspected of having a communicable disease shall be kept
23 physically separated in a way to prevent spread of disease to other susceptible animals.

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

3 (e) A veterinarian shall examine each dog as often as necessary to ensure adequate health
4 care. The examining veterinarian shall use appropriate methods to prevent, control, diagnose and
5 treat diseases and injuries.

6 (f) Sick, diseased or injured dogs shall be provided with timely veterinary care or
7 euthanized in a legal and humane manner.

8 **NOTE:** Legal and humane euthanasia agents and methods are listed in
9 *Appendix 1* to the *Guidelines on Euthanasia* published by the American
10 Veterinary Medical Association (June 2007). Copies are on file with the
11 department and may be obtained from the American Veterinary Medical
12 Association at the following address, or online at
13 http://www.avma.org/issues/animal_welfare/euthanasia.pdf:
14

15 American Veterinary Medical Association
16 1931 N. Meacham Rd
17 Suite 100
18 Schaumburg, Ill 60173-4360
19

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

24 **(3) HOUSING AND TRANSPORTATION.** (a) Dogs shall be kept in facilities that comply with
25 applicable requirements under s. ATCP 16.22 and 16.24, and transported in compliance with s.
26 ATCP 16.26.

27 (b) Entities licensed for breeding, raising or sale of dogs only for purposes of scientific research
28 are exempt from s. ATCP 16.22 and ATCP 16.24 as long as all of the following apply.

29 1. The dogs are sold from the dog breeding facility at which they are bred and raised.

1 2. The dogs are sold only to animal care facilities licensed or registered by the USDA,
2 and are not resold to any other person.

3 3. The facility enclosure size complies with 9 CFR subchapter A (Animal Welfare).

4 4. No exemption is granted to any new facility or facility that is added to or remodeled.

5 **(4) EXERCISE.** A dog shall be allowed reasonable daily exercise, based on the dog's
6 breed, size, age and health condition. Dogs shall have a daily access to a run or exercise area
7 where they can achieve a running stride. Repetitive unsupervised physical activity, restrictive of
8 other activities, shall be avoided.

9 **NOTE:** Activities such as placing an unsupervised dog on a mechanical device, such as a
10 treadmill, are those to be avoided.

11 **(5) DOG GROUPING AND SEPARATION.** (a) Dogs shall be separated, as necessary, into
12 compatible groups.
13

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

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

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

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

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

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

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

6 (e) A person who is required to be licensed under s. ATCP 16.02(1) shall have a written
7 plan for meeting the requirements under this subsection, and shall instruct employees and agents
8 on the terms of that plan.

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

11 **(1) PRIMARY ENCLOSURES.** An indoor primary enclosure shall comply with one of the
12 following requirements:

13 (a) *Enclosure for one or more dogs with 30 minutes exercise.* The floor space of the
14 primary enclosure shall be at least equal to the following, where each dog's length is measured
15 from the tip of the dog's nose to the base of the dog's tail:

16 1. For the largest dog in the primary enclosure, the following area:

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

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

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

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

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

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

23 2. For each additional dog in the primary enclosure, the following area:

1 a. For a dog up to 10 inches long, 3.375 sq. ft.

2 b. For a dog 11 to 16 inches long, 6 sq. ft.

3 c. For a dog 17 to 22 inches long, 9 sq. ft.

4 d. For a dog 23 to 26 inches long, 13.5 sq. ft.

5 e. For a dog 26 to 30 inches long, 18 sq. ft.

6 f. For a dog more than 30 inches long, 22.5 sq. ft.

7 3. The height of the primary enclosure shall be at least 12 inches taller than the tallest
8 dog in the enclosure.

9 4. Each dog kept in the primary enclosure shall have access, for at least 30 minutes each
10 day, to a run or exercise area that is large enough for the dog's size and temperament,
11 considering the number of dogs that may use the run or exercise area at any given time, and large
12 enough so that the dog can achieve a running stride.

13 **NOTE:** If a dog can reach a running stride within the enclosure, the dog does not
14 need to be removed from the enclosure for exercise.

15

16 (b) *Enclosure for one dog with 240 minutes exercise.* The floor space of the primary
17 enclosure shall be at least equal to the following, where each dog's length is measured from the
18 tip of the dog's nose to the base of the dog's tail:

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

20 2. For a dog 11 to 16 inches long, 6 sq. ft.

21 3. For a dog 17 to 22 inches long, 10 sq. ft.

22 4. For a dog 23 to 26 inches long, 14 sq. ft.

23 5. For a dog 27 to 30 inches long, 18 sq. ft.

24 6. For a dog >30 inches long, 20 sq. ft

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

4 8. The dog spends at least 240 minutes per day in the run or exercise area, which does
5 not have to be provided all at one time..

6 (c) *Temporary enclosure for one dog.* A temporary enclosure, of a size less than the
7 requirements in par. (b), may be used for one dog if all of the following apply.

8 1. The enclosure is long enough to accommodate the entire length of dog's head and
9 body, measured from the tip of the dog's nose to the base of the dog's tail.

10 2. The enclosure is tall enough for the dog to stand normally and comfortably, and large
11 enough for the dog to turn around and lie down.

12 3. The dog spends no more than 12 hours in a day in this enclosure.

13 **(2) WHELPING ENCLOSURE.** An indoor primary enclosure for a single whelping dam and
14 her puppies shall comply with all of the following requirements, rather than the requirements
15 under sub. (1) or (2):

16 (a) The enclosure shall have a solid floor, where the puppies are kept, and be of an
17 appropriate type for the breed.

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

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

1 (e) The enclosure shall be designed so there is an area that the dam can be physically
2 inaccessible to the puppies and this area may have non-solid flooring in compliance with
3 sub. (4).

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

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

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

10 (4) FLOORS AND INTERIOR SURFACES OF PRIMARY ENCLOSURES. The following standards
11 apply to all indoor primary enclosures:

12 (a) Dirt floors are prohibited.

13 (b) A floor, other than a floor in a whelping enclosure under sub. (3), may be constructed
14 of metal wire mesh. Metal wire mesh floors shall comply with all of the following requirements:

15 1. The wire shall be vinyl-coated.

16 2. The wire shall be of an adequate gauge to prevent sagging under the weight of the dog
17 or dogs kept in the enclosure, and to prevent injury to the dogs' feet.

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

19
20 (c) Any openings in a floor shall be small enough to prevent the feet of the smallest dog
21 kept in the enclosure from passing through or becoming entangled.

22 (d) Floors and other interior surfaces shall be constructed and maintained to keep dogs
23 safe from injury, clean and dry. Surfaces shall be regularly cleaned and sanitized.

1 **(6) STACKING PRIMARY ENCLOSURES.** No indoor primary enclosure may stacked on top
2 of any other indoor primary enclosure unless the stacking arrangement complies with all of the
3 following:

4 (a) The floor of the top enclosure shall be no higher than 52 inches from the floor of the
5 room in which the enclosures are stacked.

6 (b) The stacking arrangement shall provide for safe dog handling, adequate ventilation
7 and temperature control, easy cleaning and sanitization, and easy inspection of all stacked
8 enclosures.

9 (c) Each stacked enclosure shall have a solid floor that can be easily cleaned and
10 sanitized.

11 (d) The stacked enclosures shall be stable when filled to maximum capacity with dogs.

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

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

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

22 (c) An indoor facility shall be adequately ventilated with fresh or filtered air to maintain
23 the health and comfort of all dogs and to minimize odors, drafts, ammonia levels and moisture

1 condensation. The facility shall provide an exchange of air between indoor areas where dogs are
2 kept and the outdoors.

3 **NOTE:** An unheated facility may be adequate, based on a dog's breed, age, health and
4 acclimation.

5
6 **(9) CLEANING AND SANITATION.** (a) Excreta shall be removed from primary enclosures
7 and other dog holding areas at least daily, and more often as necessary for the health and comfort
8 of all dogs.

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

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

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

17 (e) All dogs shall be provided clean, dry breed appropriate bedding that shall be
18 maintained in a clean, dry condition.

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

21 **(1) DOG REQUIREMENTS.** A dog kept in an outdoor primary enclosure shall be all of the
22 following:

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

1 (b) Acclimated to the outdoor temperatures and temperature variations that may occur in
2 that primary enclosure.

3 (2) OUTDOOR PRIMARY ENCLOSURE; MINIMUM AREA. The area of an outdoor primary
4 enclosure, not counting the area of any dog shelter under sub. (4), shall be at least equal to the
5 sum of the following, where each dog's length is measured from the tip of the dog's nose to the
6 base of the dog's tail:

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

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

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

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

21 (3) PRIMARY ENCLOSURE; CONSTRUCTION. An outdoor primary enclosure shall be
22 constructed and maintained to prevent any dog kept in the primary enclosure from escaping from
23 the enclosure. If any portion of the primary enclosure is covered by a roof or overhead screen,

1 the roof or screen shall be at least 12 inches above the standing height of the tallest dog kept in
2 the primary enclosure.

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

5 (a) A dog shelter that complies with sub. (5).

6 (b) A shaded area, other than the dog shelter under sub. (4), which is adequate to shade
7 all dogs in the primary enclosure from direct sunlight during any sunlight hours likely to cause
8 heat stress, without crowding.

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

11 **(5) DOG SHELTER.** A dog shelter, under sub. (3)(a), shall meet all of the following
12 requirements:

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

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

16 (c) It shall be big enough to accommodate all dogs kept in the primary enclosure without
17 crowding, allow for the tallest dog to stand normally and comfortably, and large enough for all
18 dogs to turn around and lie down.(d) It shall be constructed and maintained to do all of the
19 following:

20 1. Prevent injury to dogs that use it.

21 2. Allow all dogs using it to retain or dissipate enough body heat for health and comfort.

22 3. Allow all dogs using it to remain dry and clean.

23 4. Give all dogs using it reasonable protection from predators.

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

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

13 (b) Tethering may not be used for any dog kept outdoors at an animal control facility or
14 animal shelter.

15 (c) Temporary tethering may be used for occasional tethering if all of the following
16 apply:

- 17 1. The tethering must not exceed 4 hours per day.
- 18 2. The responsible caretaker, or an individual implementing a caretaker's written or oral
19 instructions, shall be on the premises during tethering and regularly check the dog to ensure all
20 the requirements of this section are being met.

21 **(7) RUNS AND EXERCISE AREAS.** (a) A dog kept outdoors shall have access, for at least
22 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 of
2 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. (2) or a windbreak, unless the run or exercise area also serves as a primary enclosure.

8 **NOTE:** Tethering does not meet the requirements of this subsection.

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

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

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

15 (c) All dogs shall be provided clean, dry, breed appropriate bedding that shall be
16 maintained in a clean, dry condition.

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 often
7 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.

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 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, in order to
11 meet each dog's needs.

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

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

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

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

11
12 Wisconsin Department of Agriculture, Trade and Consumer Protection
13 Division of Animal Health
14 P.O. Box 8911
15 Madison, WI 53708-8911
16 Phone: (608) 224-4872
17 Fax: (608) 224-4871

18 **ATCP 16.30 Variances. (1)** The department may, in response to a written request,
19 grant a variance from a standard under s. ATCP 16.22, 16.24 or 16.26 if the department finds
20 that the variance is reasonable and necessary under the circumstances and will not compromise
21 the purpose served by the standard. The variance shall be issued in writing, shall include the
22 department's findings, and shall include the specific terms of the variance including any time
23 limit on the variance. A request for a variance shall include information to show that the
24 variance is justified under this section.

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

Dated this _____ day of _____, _____.

STATE OF WISCONSIN DEPARTMENT
OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION

By _____