

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

IN THE MATTER OF A WAIVER OF)	AH Docket No. 20-O-002
ANIMAL HEALTH RULES)	
Section ATCP 10.03 (2) and)	ORDER GRANTING A WAIVER FROM
ATCP 10 Appendix B,)	THE REQUIREMENT THAT ANIMAL
Wisconsin Administrative Code, for)	MANGE BE REPORTED TO THE
Animal Mange)	DEPARTMENT WITHIN 10 DAYS.
)	
)	

INTRODUCTION

Under s. ATCP 10.93, Wis. Admin. Code, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (department) may waive provisions of ch. ATCP 10, Wis. Admin. Code (Animal Health Program) if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department hereby makes the following findings and conclusions and issues the following order waiving the requirement that animal mange be reported to the department within 10 days.

FINDINGS OF FACT

(1) The department is responsible for administering Wisconsin’s animal health program under ch. 95, Wis. Stats. The program is designed to protect the health of animals in this state, and to prevent, control and eradicate communicable diseases among animals. The department has broad authority to adopt rules interpreting statutes under its jurisdiction (see s. 93.07 (1), Wis. Stats.).

(2) Under s. ATCP 10.93, Wis. Admin. Code, the department may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

(3) Section ATCP 10.03 (2), Wis. Admin. Code, requires that a person who diagnoses or obtains credible diagnostic evidence of any disease identified in ch. ATCP 10 Appendix B, in an animal in this state, shall report that diagnosis or evidence to the department within 10 days after making the diagnosis or obtaining the evidence.

(4) Section ATCP 10 Appendix B, Wis. Admin. Code, lists Mange under Multiple Species Diseases.

(5) Mange is a disease caused by skin mites.

(6) Almost all species of mammals are susceptible to a type of mange. Just a few examples include horses, sheep, swine, poultry, dogs, and cats.

(7) Mange is common in many species.

(8) The department does not take regulatory action in the case of animal mange alone.

(9) The common frequency of animal mange makes the reporting requirement burdensome.

(10) The requirement to report mange within 10 days is a rule provision [see s. ATCP 10.03 (2) and Appendix B, Wis. Admin. Code] and not a statutory requirement.

(11) A waiver to the requirement to report animal mange under s. ATCP 10.03 (2) and ATCP 10 Appendix B, Wis. Admin. Code, would be reasonable and necessary, consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, for animal disease control, and would not conflict with state statutes.

(12) The Division of Animal Health could properly grant a waiver of s. ATCP 10.03 (2) and ATCP 10 Appendix B, Wis. Admin. Code, to the requirement that animal mange be reported to the department within 10 days.

CONCLUSIONS OF LAW

(1) This waiver does not affect any other provisions of ch. ATCP 10, Wis. Admin. Code.

(2) This waiver does not conflict with any requirements under ch. 95, Wis. Stats.

(3) Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department may grant a written waiver from a requirement under ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law.

(4) The department has made the findings required under s. ATCP 10.93, Wis. Admin. Code.

(5) Pursuant to s. ATCP 10.93, Wis. Admin. Code, and Findings of Fact (1) through (12), the department should waive the requirement that animal mange be reported to the department within 10 days under s. ATCP 10.03 (2) and Appendix B, Wis. Admin. Code.

ORDER

NOW, THEREFORE, it is ordered pursuant to s. ATCP 10.93, Wis. Admin. Code, that:

(1) The department grants a waiver from the requirement that animal mange be reported to the department within 10 days under s. ATCP 10.03 (2) and ATCP 10 Appendix B, Wis. Admin. Code.

(2) This waiver will remain in effect until formally rescinded by order of the State Veterinarian.

Dated this 5th day of June, 2020

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: ***Darlene M. Konkle***
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State Veterinarian