



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: November 10, 2022

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary
Darlene Konkle, DVM, MS, DACVIM, Administrator, Division of Animal Health

SUBJECT: ATCP 10, Dog Import Rabies Vaccination

PRESENTED BY: Angela Fisher, Program and Policy Analyst, Division of Animal Health

REQUESTED ACTION:

At the November 17, 2022, Board meeting, the Department will request approval of the attached hearing rule draft regarding ch. ATCP 10 (Dog Import Rabies Vaccination), for the Department to submit the hearing rule package to the Legislative Council Rules Clearinghouse and hold to a public hearing and comment period.

SUMMARY:

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

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THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order *to amend* ATCP 10.80 (2) (a) and (b); and *to create* ATCP 10.80 (2) (d); *relating to* dog import rabies vaccination.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutes Interpreted: Wis. Stat. ss. 95.20 and 95.21 (2) (a)

Statutory Authority: Wis. Stat. s. 95.20

Explanation of Agency Authority

Section 95.20, Stats., authorizes the department to prohibit or regulate the importing of animals into this state or the movement of animals within this state if the department has reasonable grounds to believe that regulation or prohibition is necessary to prevent the introduction or spread of a disease in this state that threatens the health of animals or of humans.

Related Statutes and Rules

Section 95.21 (2) (a), Stats., requires rabies vaccination of dogs as follows: Except as provided in s. 174.054, Stats., or sub. (9) (d), the owner of a dog shall have the dog vaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 89.05 (2) (d), Stats., at no later than 5 months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into this state after the dog has reached 5 months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought into the state unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 89.05 (2) (d), Stats., before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within 3 years after the previous vaccination.

Plain Language Analysis

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The

department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

The proposed rule is specific to Wisconsin statutes. The Centers for Disease Control and Prevention (CDC) requires that all dogs entering the U.S. that are 12 weeks and older be currently vaccinated against rabies.

Comparison with Rules in Adjacent States

The proposed rule is specific to Wisconsin statutes. Rabies vaccination requirements for dog imports into adjacent states are compared below. All adjacent states require rabies vaccination prior to import for dogs over a certain age (16 weeks, 4 months, 12 weeks, 3 months), and some include exceptions for particular circumstances.

Illinois

All dogs 16 weeks of age and older are required to be vaccinated against rabies. The date of vaccination and manufacturer information must be included on the Certificate of Veterinary Inspection (CVI). These regulations do not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or testing. Ill. Admin. Code tit. 8, s. 25.47.

Iowa

All dogs and cats entering the state must be accompanied by a CVI indicating freedom from disease or exposure to infectious or contagious disease. Dog and cats originating from a rabies-quarantined area will not be admitted. All dogs over four (4) months of age must have a current rabies vaccination with a United States Department of Agriculture (USDA) approved rabies vaccine. Iowa Admin. Code s. 21.65.10.

Michigan

Dogs must have an official interstate certificate of veterinary inspection filled out by a USDA accredited veterinarian in the animal's state of origin. Dogs 12 weeks of age or older must be currently vaccinated against rabies. Dogs less than 12 weeks of age that are from a rabies quarantined area are not allowed entry. The disease vaccinated against (i.e., rabies), date of vaccination, and (if possible) date of expiration must be listed on the CVI. MCL s. 287.335a.

Minnesota

Every dog, cat, or ferret three (3) months of age or older travelling into Minnesota must be currently vaccinated for rabies and have a valid rabies vaccination certificate. The rabies vaccine may only be administered by a licensed veterinarian. The Minnesota Board of Animal Health may exempt animals from this requirement based on the written recommendation of a licensed veterinarian who has examined the animal and determined that vaccination is contraindicated due to a medical condition or for animals entering a licensed kennel that meets certain conditions. Minnesota Rules, part 1721.0500.

Summary of Factual Data and Analytical Methodologies

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months

of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis

The department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a), Stats., by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

Entities impacted by this rule include veterinarians, dog owners, dog sellers, dog facility operators, and people who import dogs into the State. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Department's Regulatory Review Coordinator may be contacted by:

Email at Bradford.Steinel@wisconsin.gov

Telephone at (608) 224-5024

The Regulatory Flexibility Analysis is attached.

Department Contact Person

Angela Fisher
Division of Animal Health
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4872
Angela.Fisher1@wisconsin.gov

Place Where Comments are to Be Submitted and Deadline for Submission:

Comments must be received on or before January 24, 2023 to be included in the record of rule-making proceedings. Submit comments:

By mail to:

Angela Fisher
Division of Animal Health
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

By email to: Angela.Fisher1@wisconsin.gov

RULE TEXT

1 SECTION 1. ATCP 10.80 (2) (a) and (b) are amended to read:

2 ATCP 10.80 **(2)** (a) Except as provided in par. (b), no person may import a ~~dog or~~ domestic cat into this
3 state unless the ~~dog or~~ domestic cat has a current rabies vaccination.

4 (b) An imported ~~dog or~~ domestic cat that is under 5 months of age may be imported without a current rabies
5 vaccination administered by a licensed veterinarian, provided that the owner has the ~~dog or~~ cat vaccinated
6 by a licensed veterinarian by the date on which the ~~dog or~~ cat reaches 5 months of age.

7 SECTION 2. ATCP 10.80 (2) (d) is created to read:

8 ATCP 10.80 **(2)** (d) No person may import a dog into this state unless the dog meets the requirements under
9 s. 95.21 (2), Stats.

10 SECTION 3. EFFECTIVE DATE. This rule is effective on the first day of the month commencing after the date
11 of publication, as provided under Wis. Stat. s. 227.22 (2) (intro.).

(END OF RULE TEXT)

Dated this _____ day of November, 2022

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 9/30/22
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 10	
4. Subject Dog import rabies vaccination	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected Not applicable.
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. Not applicable.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. Not applicable.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a) by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements. Entities impacted by this rule include veterinarians, dog owners, dog sellers, dog facility operators, and people who import dogs into the State. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the proposed rule is to align s. ATCP 10.80 (2) with s. 95.21, Stats. If the proposed rule is not implemented, the text of s. ATCP 10.80 (2) would continue to include unauthorized and unenforced provisions. The	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

department would continue to report the unauthorized and unenforced rule during the biennial review of rules, as required under s. 227.29, Stats.

16. Long Range Implications of Implementing the Rule

The proposed rule would align s. ATCP 10.80 (2) with s. 95.21, Stats.

17. Compare With Approaches Being Used by Federal Government

The proposed rule is specific to Wisconsin statutes. The Centers for Disease Control and Prevention (CDC) requires that all dogs entering the U.S. that are 12 weeks and older be currently vaccinated against rabies.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The proposed rule is specific to Wisconsin statutes. Rabies vaccination requirements for dog imports into adjacent states are compared below. All adjacent states require rabies vaccination prior to import for dogs over a certain age (16 weeks, 4 months, 12 weeks, 3 months), and some include exceptions for particular circumstances.

Illinois

All dogs 16 weeks of age and older are required to be vaccinated against rabies. The date of vaccination and manufacturer information must be included on the Certificate of Veterinary Inspection (CVI). These regulations do not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or testing.

Ill. Admin. Code tit. 8, s. 25.47.

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Michigan

Dogs must have an official interstate certificate of veterinary inspection filled out by a USDA accredited veterinarian in the animal's state of origin. Dogs 12 weeks of age or older must be currently vaccinated against rabies. Dogs less than 12 weeks of age that are from a rabies quarantined area are not allowed entry. The disease vaccinated against (i.e., rabies), date of vaccination, and (if possible) date of expiration must be listed on the CVI. MCL s. 287.335a

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Every dog, cat, or ferret three (3) months of age or older travelling into Minnesota must be currently vaccinated for rabies and have a valid rabies vaccination certificate. The rabies vaccine may only be administered by a licensed veterinarian. The Minnesota Board of Animal Health may exempt animals from this requirement based on the written recommendation of a licensed veterinarian who has examined the animal and determined that vaccination is contraindicated due to a medical condition or for animals entering a licensed kennel that meets certain conditions. Minnesota Rules, part 1721.0500.

19. Contact Name

Angela Fisher

20. Contact Phone Number

608-224-4872

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a) by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

Entities impacted by this rule include veterinarians, dog owners, dog sellers, dog facility operators, and people who import dogs into the State. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a), Stats., by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a), Stats., by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

5. Describe the Rule's Enforcement Provisions

The proposed rule does not make changes to enforcement.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Dog Import Rabies Vaccination
Adm. Code Reference: ATCP 10
Rules Clearinghouse #: 22-R-10
DATCP Docket #:

Rule Summary

The current language of s. ATCP 10.80 (2) (a) conflicts with s. 95.21 (2) (a), Stats., with regards to rabies vaccination of dogs. The current rule requires a rabies vaccination prior to import of dogs five (5) months of age or older, whereas the statute allows for rabies vaccination within 30 days after import. The department reported the rule on the 2021 biennial review of rules, as required under s. 227.29, Stats. The department is currently not enforcing the unauthorized portion of the rule. The proposed rule amends s. ATCP 10.80 (2) to align with s. 95.21, Stats.

Small Businesses Affected

Entities impacted by this rule include veterinarians, dog owners, dog sellers, dog facility operators, and people who import dogs into the State. Most affected entities are small businesses, pursuant to the definition under s. 227.485 (2) (c), Stats.

Reporting, Bookkeeping and other Procedures

The proposed rule will not require any additional reporting, bookkeeping, or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills from small businesses.

Accommodation for Small Business

No accommodation for small business will be necessary for the proposed rule. The department expects the proposed rule to have minimal to no economic impact. The proposed rule would amend s. ATCP 10.80 (2) to align with s. 95.21 (2) (a), Stats., by removing the unauthorized and unenforced portion of the rule. The proposed rule does not create any new requirements.

Conclusion

The department expects the proposed rule to have minimal to no economic impact.

Dated this __14th__ day of __October__, 2022.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By **Darlene M. Konkle**
Darlene Konkle, DVM, MS, DACVIM
State Veterinarian and Division Administrator
Division of Animal Health

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD

The Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a permanent rule for ATCP 10 relating to dog import rabies vaccination, at the time and place shown below.

Hearing Information

Date: Tuesday, January 10, 2023

Time: 10:00 a.m

Location:

In-Person:

Prairie Oaks State Office Building, Room 106, 2811 Agriculture Dr., Madison,
Wisconsin 53708

Via Internet Access:

<https://www.zoomgov.com/j/1604135282?pwd=NE5icVQ0aVVVVV3A1YVl2QkN6SU9yUT09>

Via Telephone Access:

Dial 1-551-285-1373, Meeting ID 160 413 5282, Passcode 120238

Appearances at the Hearing and Submittal of Written Comments

Comments may be submitted to Angela Fisher by email to Angela.Fisher1@wisconsin.gov or by mail to Angela Fisher, Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911. Comments must be received by January 24, 2023 to be included in the record of the rule-making proceedings.

The rule may be reviewed and comments made at

<https://docs.legis.wisconsin.gov/code/chr/comment>. You may also obtain a copy by contacting Angela Fisher at Angela.Fisher1@wisconsin.gov.

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by January 2, 2023, by contacting Angela Fisher at Angela.Fisher1@wisconsin.gov or (608) 224-4872.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).
The Initial Regulatory Flexibility Analysis is attached.

Agency Small Business Regulatory Coordinator

Bradford Steine, Bradford.Steine1@wisconsin.gov, (608) 224-5024