

Rulemaking Process

ATCP 16 – Regulation of Dog Sellers

1. *On January 13, 2010, the DATCP Board approved the Scope of Proposed Rulemaking Statement (see attached). This begins the process for rulemaking.*
2. *The Advisory Committee will have until approximately the end of June to complete its work in assisting the Division to develop the ATCP 16 rule, implementing s. 173.41, Wis. Stats., regarding the licensing and regulation of dog sellers.*
3. *By July 21, 2010, the draft of the rule must be sent to DATCP's Chief Legal Counsel for review. This includes not only the draft rule language, but also the following:*
 - a. *Plain Language Analysis*
 - b. *Fiscal Estimate – objectively describing the rule's anticipated fiscal effect on DATCP and other state and local units of government*
 - c. *Small Business Analysis – analyze the rules to determine the effect on small business and attempt to minimize any adverse impacts.*
4. *On August 11, 2010, the DATCP Board will be asked approve the draft for public hearings at its meeting.*
5. *If the Board approves the hearing draft, the Division must send the draft to the Legislative Council Rules Clearinghouse for review, prior to DATCP holding public hearings on the rule. The Clearinghouse will review the rule for compliance with legal and drafting requirements. The Clearinghouse has 20 working days to review the proposed rule.*
6. *At the same time as the Clearinghouse is reviewing the rule, DATCP may publish a formal hearing notice, describing the proposed rule and announcing the scheduled hearing dates, times and locations.*
7. *In October, 2010, the Division will hold public hearings on ATCP 16. These hearings will be held at different locations in the state and will include an opening statement by Division staff, with a brief summary of the background and contents of the proposed rule. There will be an audio recording of the hearing and provision for submitting written comments. A record will be made of all the hearings, as part of the rule file.*
8. *By November 17, 2010, the final rule must be sent to DATCP's Chief Legal Counsel for review. The analysis must address suggestions made by the Legislative Council Rules Clearinghouse report and at public hearings, including those suggestions that were incorporated in the final rule and those that were not, and why or why not.*
9. *On December 8, 2010, the DATCP Board will be asked to approve the final draft of ATCP 16.*

10. *After the Board approves the final draft rule, DATCP must refer the rule for Legislative committee review. Within 7 days after DATCP refers the rule to the Legislature, the presiding officer in each house refers the rule to one standing committee in that house. Each standing committee has 30 days to review the rule, with a possible extension of 30 days.*

11. *Once the review period is complete, DATCP may adopt the rule, by having the Secretary sign the rule and filing certified copies. The rule will not take effect until the first day of the month following publication in the Wisconsin Administrative Register.*

12. *If this rule is filed by February 12, 2011, it will be published on March 31, 2011 with a general effective date of April 1, 2011. However, if the rule has a significant economic impact on small business, then the rule as it applies to small businesses is effective on June 1, 2011. The program is scheduled to begin, with the rule in effect, on July 1, 2011.*

State of Wisconsin
Department of Agriculture, Trade and Consumer Protection

Scope of Proposed Rulemaking

The Department of Agriculture, Trade and Consumer Protection (DATCP) gives notice, pursuant to s. 227.135, Stats., that it proposes to promulgate an administrative rule as follows:

SUBJECT: Regulation of Dog Sellers

ADMINISTRATIVE CODE REFERENCE: Chapter ATCP 16, Wis. Adm. Code (New).

PRELIMINARY OBJECTIVES:

This rule will implement the licensure and regulation of dog sellers, as prescribed under s. 173.41, Stats. This includes licensing all persons selling 25 or more dogs in a year, coming from more than 3 litters, and establishing facility and care standards for the licensed entities.

PRELIMINARY POLICY ANALYSIS:

The Legislature recently enacted s. 173.41, Stats., which requires DATCP to license persons selling 25 or more dogs per year. DATCP must establish facility standards and standards of care for dogs kept at the licensed facilities, and must inspect facilities for compliance.

This rule will implement the new requirements for dog sellers. This rule may address the following issues, among others:

- **Dog seller licensing standards and process.**
- **Facilities standards for licensed facilities. These may include, among other things, standards for all of the following:**
 - **Indoor and outdoor enclosures.**
 - **Enclosure size.**
 - **Enclosure materials.**
 - **Cleanliness of enclosures.**
 - **Lighting and ventilation.**
- **Requirements related to the sale of dogs, including certificates of veterinary inspection.**
- **Recordkeeping requirements.**

- **Basic standards of care, including access to exercise, food and water.**
- **Other issues as appropriate.**

CURRENT AND PROPOSED FEDERAL LEGISLATION:

Currently, the United States Department of Agriculture (USDA) licenses and inspects approximately 72 kennels in Wisconsin that are selling puppies wholesale. USDA establishes minimum facility standards for those licensed facilities.

POLICY ALTERNATIVES:

Section 173.41, Stats., requires DATCP to implement a dog sellers licensing program, and to adopt rules for that program. DATCP has no alternative but to adopt rules. The rule contents must be consistent with the policy directives contained in the legislation. DATCP rules will spell out the details of the program, consistent with those statutory directives.

STATUTORY ALTERNATIVES:

None at this time. DATCP intends to implement the dog seller licensing program mandated by the Legislature.

STAFF TIME REQUIRED:

DATCP estimates that it will use approximately 1.0 FTE staff to develop this rule. This includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

DATCP BOARD AUTHORIZATION:

DATCP may not begin drafting this rule until the Board of Agriculture, Trade and Consumer Protection (Board) approves this scope statement. The Board may not approve this scope statement sooner than 10 days after this scope statement is published in the Wisconsin Administrative Register. If the Board takes no action on the scope statement within 30 days after the scope statement is presented to the Board, the scope statement is considered approved. Before DATCP holds public hearings on this rule, the Board must approve the hearing draft. The Board must also approve the final draft rule before the department adopts the rule.