



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: July 31, 2012
TO: Board of Agriculture, Trade and Consumer Protection
FROM: Ben Brancel, Secretary
Robert G. Ehlenfeldt DVM, Administrator, Animal Health Division
SUBJECT: Animal Health Report

Division update:

At the August 14, 2012 board meeting Dr. Robert Ehlenfeldt will update the board on proposed organizational changes within USDA-APHIS-Veterinary Services and potential impacts for Wisconsin.

Dog sellers and facility operators; rule:

2009 Wisconsin Act 90 created the dog sellers and dog facility operator program under s. 173.41, Stats. This program licenses animal control facilities and animal shelters that: shelter at least 25 dogs; dog breeders that sell 25 or more dogs from more than 3 litters; dog breeding facilities from which 25 or more dogs are sold in a year; dog dealers who sell, distribute, grade or offer for sale, distribution, or trade, 25 or more dogs in a year; and out of state dog dealers who are not residents of this state and who bring 25 or more dogs into this state for sale here in a year. With this license the department inspects facilities, establishes health requirements for selling dogs, defines the age that a dog may be sold, and defines standards of care including enclosure and exercise requirements, vaccinations, record keeping and requirements for temporary dog markets.

Under s. 173.41 (14), Stats., the department is required to promulgate rules to implement and administer the program in consultation with an advisory committee consisting of individuals representing retail dog sellers, breeders, sporting associations, humane societies, veterinarians, animal control facilities, and breed rescue groups. Accordingly, the department promulgated ATCP 16, Wis. Admin. Code, and the program went into effect on June 1, 2011.

Under s. 173.41 (14) (d), Stats., the advisory committee was established for 12 months and was required to make recommendations to the department for amendments to the rules.

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In anticipation of that meeting and modifying the rule, Dr. Ehlenfeldt met with the Board and presented a "Statement of Scope" in order to make modifications to current DATCP rules under ch. ATCP 16, related to dog sellers and dog facility operators. The Board approved the scope statement at its May 16, 2012 meeting.

The department met with the advisory committee on May 24, 2012, to discuss any concerns the committee members had with the existing rules and whether revisions should be considered. Some of the issues brought up couldn't be remedied by rule as the requirements were statutory. Most issues were minor and could be settled with a variance or discussed with staff at the meeting for clarification. On May 31, 2012, the DATCP inspectors met to discuss any concerns they had with the rule. Again, the issues brought up would require statutory change and changes to the rule were minor.

Statistics:

Currently there are 338 licensed entities in Wisconsin. In the first year of the program the Department has had 347 applicants. Actions on those licenses are as follows:

- 304 active licenses issued.
- 34 conditional licenses issued.
- 5 license applications denied.
- 4 have chosen to discontinue their license.

Proposed action:

The advisory committee members were very complimentary of the DATCP inspectors and were able to comply with the rule requirements. Further, the DATCP inspectors were able to resolve most issues in the field through existing rule or statutory requirements.

Although it was agreed that the rules could be re-organized or modified for clarity, the program appears to be functioning well under the current rules. Because the rules have only been in effect for one year, it was agreed by all that additional time is needed for the program to operate before it can be determined whether the rules need to be modified. Licensed businesses have complied with the rule requirements and changing the rules at this point could affect business stability and finances.

The department is asking the Board to approve not moving ATCP 16 from the Scope stage to draft rule making. A new Scope statement will be developed when the department determines modifications to the dog seller rule ATCP 16 are needed in the future.