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WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

Richard Sweet
Assistant Director
(608) 266-2982

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-145

AN ORDER to renumber ATCP 11.51; to amend ATCP 11.11 (1) (a) 3.; and to create ATCP 11.01 (80p), 11.11 (5), 11.51 (2) and 11.55 (5), relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" state.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

10-20-00 RECEIVED BY LEGISLATIVE COUNCIL.
11-10-00 REPORT SENT TO AGENCY.

RS:DLL:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

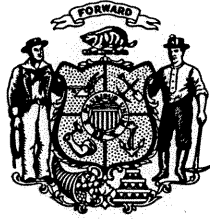
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-145

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. Section ATCP 11.11 (5) (b) and the parallel provisions of ss. ATCP 11.51 (2) and 11.55 (5) should clearly state who is responsible for obtaining the post-importation tuberculosis test. The passive voice construction used in the rule is vague.
- b. What is the USDA form VS1-27? This should be better explained, perhaps in a note.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. The post-importation confinement requirement for bovine animals requires confinement of an animal until *either* the animal tests negative for tuberculosis *or* it is shipped to slaughter, while the post-importation confinement requirements for goats and cervids require confinement of an animal until the animal tests negative for tuberculosis. This means that imported goats and cervids may not be shipped to slaughter without a negative tuberculosis test (unless they are imported directly to the slaughter facility). Is this the department's intent?
- b. In s. ATCP 11.55 (5) (a) 2., the word "if" should be replaced by the word "in."

See CHR 99-158
for other changes to ATCP 11

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

- 1 The state of Wisconsin department of agriculture, trade and consumer protection
- 2 proposes the following order to renumber ATCP 11.51; to amend ATCP 11.11(1)(a)3.;
- 3 and to create ATCP 11.01(80p), 11.11(5), 11.51(2) and 11.55(5); relating to importing
- 4 bovine animals, goats or cervids from a state designated by USDA as a tuberculosis
- 5 “non-modified accredited” state.

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

Statutory Authority: s. 93.07(1), Stats.

Statutes Interpreted: ss. 93.07(10), 95.20 and 95.25, Stats.

In order to protect animals and the public from bovine tuberculosis, this rule restricts the importation of animals from states that the United States department of agriculture (USDA) has classified as tuberculosis “non-modified accredited.”

Background

Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm-blooded vertebrates, including humans. If TB becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state.

The Wisconsin department of agriculture, trade and consumer protection (department) administers a TB eradication program in cooperation with USDA. After several decades of intense effort, the disease was nearly eradicated in the United States. But recently, the USDA reclassified Michigan from “accredited-free” to “non-modified accredited” because TB was confirmed in several cattle herds and in several native white-tailed deer.

TB is easily transmitted. Wisconsin imports a substantial number of animals from Michigan, and the last known incident of TB in a bovine animal in Wisconsin involved an animal that was imported from Michigan. For these reasons, the department proposes to regulate the import of animals that originate from "non-modified accredited" states.

Pre-Import Requirements

Under this rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis "non-modified accredited" state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 months old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

Post-Import Testing

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

Post-Import Confinement

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

Exception

This rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

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SECTION 1. ATCP 11.01(80p) is created to read:

1 ATCP 11.01(80p) "Tuberculosis non-modified accredited state" means a state that
2 the federal bureau has classified as a bovine tuberculosis non-modified accredited state.

3 SECTION 2. ATCP 11.11(1)(a)3. is amended to read:

4 ATCP 11.11(1)(a)3. The written import permit number, if a written import permit
5 is required under sub. (3), or (5) or (6). *no reference to permits = but (4) does!*

6 SECTION 3. ATCP 11.11(5) is created to read: *a sub. (5) already exists*

7 ATCP 11.11(5) IMPORTS FROM TUBERCULOSIS NON-MODIFIED ACCREDITED

8 STATES. (a) *Pre-import requirements*. No person may import to this state any bovine
9 animal that originates from a tuberculosis non-modified accredited state unless all the
10 following apply:

11 1. The animal is accompanied by a valid certificate of veterinary inspection that
12 complies with ss. ATCP 11.02 and 11.11(1). The certificate shall include all the
13 following information:

- 14 a. The identification number of the import permit required under subd. 2.
15 b. The whole herd tuberculosis test result required under subd. 3.
16 c. The individual test result required under subd. 4.

17 2. The department issues an import permit under s. ATCP 11.03(2).

18 3. The animal originates from a herd that has tested negative on a whole herd
19 tuberculosis test conducted within 12 months prior to the import date. The whole herd
20 test shall include every animal 6 months of age or older in the herd.

21 4. The animal has tested negative on a tuberculosis test conducted within 60 days
22 prior to the import date, or is less than 6 months old on the import date.

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NOTE: U.S. department of agriculture rules for interstate shipment of animals may specify a different time period for tuberculosis testing prior to interstate shipment. An importer must comply with USDA rules; however, compliance with USDA rules does not excuse a violation of subd. 4.

(b) *Post-import testing.* A bovine animal imported to this state from a non-modified accredited state shall be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle imported for feeding prior to slaughter if all the following apply:

1. The feeder cattle are confined to the premises at which they are first received in this state, until they are shipped to slaughter.

2. The feeder cattle, when shipped to slaughter, are accompanied by a completed United States department of agriculture form VS1-27.

(c) *Post-import confinement.* Bovine animals imported from a non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until one of the following occurs:

- 1. The animals test negative for tuberculosis under par. (b).
- 2. The animals are shipped to a slaughtering establishment for slaughter.

(d) *Exemption.* This subsection does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

SECTION 4. ATCP 11.51 is renumbered ATCP 11.51(1).

SECTION 5. ATCP 11.51(2) is created to read:

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action
voice

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1 ATCP 11.51(2) IMPORTS FROM TUBERCULOSIS NON-MODIFIED ACCREDITED
2 STATES. (a) *Pre-import requirements.* No person may import to this state any goat that
3 originates from a tuberculosis non-modified accredited state unless all the following
4 apply:

5 1. The goat is accompanied by a valid certificate of veterinary inspection that
6 complies with s. ATCP 11.02. The certificate shall include all the following information:

7 a. The identification number of the import permit required under subd. 2.

8 b. The whole herd tuberculosis test result required under subd. 3.

9 c. The individual test result required under subd. 4.

10 2. The department issues an import permit under s. ATCP 11.03(2).

11 3. The goat originates from a herd that has tested negative on a whole herd
12 tuberculosis test conducted within 12 months prior to the import date. The whole herd
13 test shall include every animal 6 months of age or older in the herd.

14 4. The goat has tested negative on a tuberculosis test conducted within 60 days
15 prior to the import date, or is less than 6 months old on the import date.

16 **NOTE:** U.S. department of agriculture rules for interstate shipment of animals
17 may specify a different time period for tuberculosis testing prior to
18 interstate shipment. An importer must comply with USDA rules;
19 however, compliance with USDA rules does not excuse a violation of
20 subd. 4.

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22 (b) *Post-import testing.* A goat imported from a tuberculosis non-modified
23 accredited state shall be tested for tuberculosis not less than 90 days nor more than 120
24 days after it is imported.

25 (c) *Post-import confinement.* Goats imported from a non-modified accredited
26 state may not be commingled with any other animals in this state, or removed from the

or are shipped to slaughter?

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1 premises at which they are first received in this state, until the goat tests negative for
2 tuberculosis under par. (b).

3 (d) *Exemption.* This subsection does not apply to goats that are imported
4 directly to a slaughtering establishment for slaughter.

5 **SECTION 6.** ATCP 11.55(5) is created to read:

6 ATCP 11.55(5) IMPORTS FROM TUBERCULOSIS NON-MODIFIED ACCREDITED

7 STATES. (a) *Pre-import requirements.* No person may import to this state any cervid that
8 originates from a tuberculosis non-modified accredited state unless all the following
9 apply:

10 1. The cervid is accompanied by a valid certificate of veterinary inspection that
11 complies with s. ATCP 11.02. The certificate shall include all the following information:

- 12 a. The identification number of the import permit required under sub. (4).
- 13 b. The whole herd tuberculosis test result required under subd. 2.
- 14 c. The individual test result required under subd. 3.

15 2. The cervid originates from a herd that has tested negative on a whole herd
16 tuberculosis test conducted within 12 months prior to the import date. The whole herd
17 test shall include every animal 6 months of age or older if the herd. X

18 3. The cervid has tested negative on a tuberculosis test conducted within 90 days
19 prior to the import date, or is less than 6 months old on the import date.

20 **NOTE:** U.S. department of agriculture rules for interstate shipment of animals
21 may specify a different time period for tuberculosis testing prior to
22 interstate shipment. An importer must comply with USDA rules;
23 however, compliance with USDA rules does not excuse a violation of
24 subd. 3.
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no import permit required
- is this intentional? see ATCP 11.55(4)
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1 (b) *Post-import testing.* A cervid imported from a tuberculosis non-modified
2 accredited state shall be tested for tuberculosis not less than 90 days nor more than 120
3 days after it is imported.

4 (c) *Post-import confinement.* Cervids imported from a tuberculosis non-
5 modified accredited state may not be commingled with any other animals in this state
6 until the cervid tests negative for tuberculosis under par. (b). *or shipped to slaughter?*

7 (d) *Exemption.* This subsection does not apply to cervids that are imported
8 directly to a slaughtering establishment for slaughter.

EFFECTIVE DATE. The rules contained in this order shall take effect on the
first day of the month following publication in the Wisconsin administrative register, as
provided under s. 227.22(2)(intro), Stats.

Dated this _____ day of _____, 2001.

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION**

Ben Brancel
Secretary

Initial Regulatory Flexibility Analysis

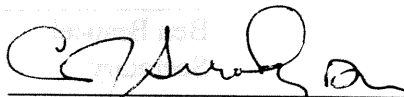
This rule will affect small businesses that import bovine animals, goats or cervids into this state. It requires the operator of those businesses to either refrain from importing bovine animals, goats or cervids from states the United States department of agriculture has designated as tuberculosis non-modified accredited states, or to comply with the standards this rule establishes to assure that the animals that are imported are not infected with bovine tuberculosis.

At the present time, the USDA has only designated one state, Michigan, as non-modified accredited. If the small business operator imports bovine animals, goats or cervids from Michigan, the operator will need to assure that the animal originates from a herd which has tested negative for tuberculosis within the past 12 months and that the animal has tested negative within the past 60 days (90 days for cervids). This places a burden on the business operator but it does not completely prohibit import of animals from Michigan. The burden of assuring that the animals have been properly tested is minimal compared to the burden that would be experienced by Wisconsin's animal agriculture industry if bovine tuberculosis is introduced to Wisconsin by an animal imported from a non-modified accredited state.

This rule requires persons, including small business operators, who import animals from non-modified accredited states to have the animals retested for tuberculosis after being imported. The imported animals must be kept segregated from other animals until the retest is completed. These requirements add costs for the importer, but the costs that would be incurred if infected animals are imported without these precautions are substantially higher. And, the importer has the ability to avoid these costs entirely by importing animals from other states of origin rather than from a non-modified accredited state.

Dated this 23 day of August, 2000.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION



Clarence J. Siroky, DVM
Administrator
Division of Animal Health

OCT 20 2000

Department of Agriculture,
Trade and Consumer Protection
Office of Legal Counsel

Memorandum

DATE: October 19, 2000

TO: Gary Poulson, Revisor of Statutes Office
Richard Chandler, State Budget Director, DOA

FROM: Roxy Capelle, Office of Legal Counsel
Department of Agriculture, Trade and Consumer Protection

SUBJECT: NOTICE OF HEARING – to renumber Wis. Admin. Code Chapter ATCP 11.51; to amend ATCP 11.11(1)(a)3; and to create ATCP 11.01(80p), 11.51(5), 11.51(2) and 11.55(5); relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis “non-modified accredited” state.

Attached is Notice of Hearing for the above-proposed rule, for printing in the next two issues of the Wisconsin Administrative Register.

Please initial and return the attached copy of this memo for our files.

Thank you.

rc

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

**RULES RELATED TO IMPORTING ANIMALS FROM TUBERCULOSIS "NON-MODIFIED
ACCREDITED" STATES**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed rules relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" states. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rules. Following the public hearings, the hearing record will remain open until December 8, 2000, for additional written comments.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Animal Health, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4883. Copies will also be available at the hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **Friday, November 17, 2000**, by writing to Lynn Miller, Division of Animal Health, P.O. Box 8911, Madison WI 53708-8911, telephone (608) 224-4883. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

Two hearings are scheduled:

Tuesday, November 28, 2000, 6:30 pm until 8:30 pm
Wisconsin Department of Agriculture, Trade and Consumer Protection
Board Room
2811 Agriculture Drive
Madison, WI 53704
Handicapped accessible

Thursday, November 30, 2000, 6:30 pm until 8:30 pm
Wisconsin Department of Agriculture, Trade and Consumer Protection
Conference Room
3610 Oakwood Hills Parkway
Eau Claire, WI 54701-7754
Handicapped accessible

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

Statutory Authority: ss.93.07(1), Stats.

Statute Interpreted: s. 93.07(10), 95.20 and 95.25, Stats.

In order to protect animals and the public from bovine tuberculosis, this rule restricts the importation of animals from states that the United States department of agriculture (USDA) has classified as tuberculosis "non-modified accredited".

Background

Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm-blooded vertebrates, including humans. If TB becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state.

The Wisconsin department of agriculture, trade and consumer protection (department) administers a TB eradication program in cooperation with USDA. After several decades of intense effort, the disease was nearly eradicated in the United States. But recently, the USDA reclassified Michigan from "accredited-free" to "non-modified accredited" because TB was confirmed in several cattle herds and in several native white-tailed deer.

TB is easily transmitted. Wisconsin imports a substantial number of animals from Michigan, and the last known incident of TB in a bovine animal in Wisconsin involved an animal that was imported from Michigan. For these reasons, the department proposes to regulate the import of animals that originate from "non-modified accredited" states.

Pre-Import Requirements

Under this rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis "non-modified accredited" state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 month old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

Post-Import Testing

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

Post-Import Confinement

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

Exception

This rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

Fiscal Estimate

The Department anticipates costs to the Department of approximately \$2000 as a result of this rule. The Department can accommodate these costs in its current budget. The Department does not anticipate any additional costs to counties or other local governments.

Initial Regulatory Flexibility Analysis

This rule will affect small businesses that import bovine animals, goats or cervids into this state. It requires the operator of those businesses to either refrain from importing bovine animals, goats or cervids from states the United States department of agriculture has designated as tuberculosis non-modified accredited states, or to comply with the standards this rule establishes to assure that the animals that are imported are not infected with bovine tuberculosis.

At the present time, the USDA has only designated one state, Michigan, as non-modified accredited. If the small business operator imports bovine animals, goats or cervids from Michigan, the operator will need to assure that the animal originates from a herd which has tested negative for tuberculosis within the past 12 months and that the animal has tested negative within the past 60 days (90 days for cervids). This places a burden on the business operator but it does not completely prohibit import of animals from Michigan. The burden of assuring that the animals have been properly tested is minimal compared to the burden that would be experienced by Wisconsin's animal agriculture industry if bovine tuberculosis is introduced to Wisconsin by an animal imported from a non-modified accredited state.

This rule requires persons, including small business operators, who import animals from non-modified accredited states to have the animals retested for tuberculosis after being imported. The imported animals must be kept segregated from other animals until the retest is completed. These requirements add costs for the importer, but the costs that would be incurred if infected animals are imported without these precautions are substantially higher. And, the importer has the ability to avoid these costs entirely by importing animals from other states of origin rather than from a non-modified accredited state.

Dated this 19 day of Oct, 2000

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION**

By Ben Brancel
Ben Brancel
Secretary

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on its emergency rule (ch. ATCP 16) relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" state. The public hearing will be held on **Tuesday, September 19, 2000 at 2:00 p.m.** at the following location:

Department of Agriculture, Trade and Consumer Protection
Prairie Oak State Office Building
Room 172
2811 Agriculture Drive
Madison, Wisconsin

Public comment is being sought on the Department's emergency rule, pursuant to s. 227.24(4), Stats., which requires that a public hearing be held within 45 days after an emergency rule is adopted. Following the public hearing, the hearing record will remain open until **September 25, 2000** to receive additional written comments.

An interpreter for the hearing impaired will be available on request for this public hearing. Please make reservations for a hearing interpreter by **September 7, 2000** either by writing to Dr. Robert Ehlenfeldt, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911 (telephone 608-224-4880) or by calling the Department TDD at 608-224-5058.

**Analysis prepared by the Department of Agriculture,
Trade and Consumer Protection**

Statutory Authority: s. 93.07(1), Stats.

Statutes Interpreted: ss. 93.07(10), 95.20 and 95.25, Stats.

In order to protect the public from bovine tuberculosis, this emergency rule restricts the importation of animals from states that the United States department of agriculture (USDA) has classified as "non-modified accredited."

Background

Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm-blooded

vertebrates, including humans. If TB becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state.

The TB eradication program is administered jointly by the Wisconsin department of agriculture, trade and consumer protection (department) and the USDA. After several decades of intense effort, the disease was nearly eradicated in the United States. Recently the USDA reclassified Michigan from "accredited-free" to "non-modified accredited" because TB was confirmed in several cattle herds and in several native white-tailed deer. Because of the ease of transmission of TB; the substantial number of animals imported to Wisconsin; and because the last known incident of TB in a bovine animal in Wisconsin involved a bovine that was imported from Michigan, the department has determined that Wisconsin needs to regulate the import of animals that originate from "non-modified accredited" states.

Rule Contents

Pre-Import Requirements

Under this emergency rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis "non-modified accredited" state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 months old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

Post-Import Testing

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

Post-Import Confinement

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

Exception

This emergency rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter. "

FINDING OF EMERGENCY

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as "accredited-free" for tuberculosis.

(3) The USDA recently reclassified Michigan from "accredited-free" to "non-modified accredited," reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin-raised animals.

Fiscal Estimate

The department anticipates costs to the department of approximately \$2000 as a result of this emergency rule. The department can accommodate these costs in its current budget. The department does not anticipate any additional costs to counties or other local governments.

Regulatory Flexibility Analysis

This emergency rule may have some financial impact on small business people who import bovine animals, goats or cervids. If these people import animals from states designated tuberculosis "non-modified" accredited, these people may incur additional costs associated with post-import testing of the animals. However, they may avoid additional testing costs by refraining from importing animals that originate from tuberculosis non-modified accredited states.

Despite the potential costs associated with testing, the rule is needed because the costs that would be incurred by small business people if bovine tuberculosis is imported to Wisconsin far exceeds any additional costs associated with testing animals that originate from tuberculosis non-modified accredited states.

Copies of the Emergency Rule

A copy of the emergency rule to be considered may be obtained free of charge from:

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

(608) 224.4883

Dated this 11 day of August, 2000.

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**



Ben Brancel
Secretary



State of Wisconsin
Tommy G. Thompson, Governor

AUG 16 2000

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

DATE: August 11, 2000

TO: State Legislators

FROM: Ben Brancel
Secretary

SUBJECT: **Emergency Rule; Importing Bovine Animals, Goats or Cervids from "Non-modified Accredited" States**

Pursuant to s. 227.24(3), Stats., the Department of Agriculture, Trade and Consumer Protection is forwarding a copy of an emergency rule, to control imports of bovine animals, goats and cervids from states the United States Department of Agriculture (USDA) designates as tuberculosis "non-modified accredited" states. We are also enclosing a fiscal estimate on the emergency rule.

Background

Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm-blooded vertebrates, including humans. If TB becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state.

The department administers a TB eradication program in cooperation with the United States Department of Agriculture (USDA). After several decades of intense effort, the disease was nearly eradicated in the United States. But recently, the USDA reclassified Michigan from "accredited-free" to "non-modified accredited" because TB was confirmed in several cattle herds and in several native white-tailed deer.

TB is easily transmitted. Wisconsin imports a substantial number of animals from Michigan, and the last known incident of TB in a bovine animal in Wisconsin involved an animal from Michigan. For these reasons, Wisconsin needs to regulate imports from "non-modified accredited" states.

Why an Emergency Rule is Needed

If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state. Loss of "accredited free" status for Wisconsin would have a significant negative impact on the interstate and international movement of Wisconsin cattle and other livestock. This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to

control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin raised animals. The emergency rule will regulate imports until the department can adopt a "permanent" rule.

Pre-Import Requirements

Under this emergency rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis "non-modified accredited" state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 months old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

Post-Import Testing

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

Post-Import Confinement

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

Exception

This emergency rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

Public Hearing

A public hearing on this emergency rule has been scheduled for September 19, 2000 at 2:00 p.m. in the Prairie Oak State Office Building, Room 172, 2811 Agriculture Drive, Madison, WI.

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

- 1 The state of Wisconsin, department of agriculture, trade and consumer protection hereby
- 2 adopts the following emergency rule to create ATCP 16 relating to importing bovine
- 3 animals, goats or cervids from a state designated by USDA as a tuberculosis “non-
- 4 modified accredited” state.

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

Statutory Authority: s. 93.07(1), Stats.

Statutes Interpreted: ss. 93.07(10), 95.20 and 95.25, Stats.

In order to protect the public from bovine tuberculosis, this emergency rule restricts the importation of animals from states that the United States department of agriculture (USDA) has classified as “non-modified accredited.”

Background

Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm-blooded vertebrates, including humans. If TB becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in the state.

The TB eradication program is administered jointly by the Wisconsin department of agriculture, trade and consumer protection (department) and the USDA. After several decades of intense effort, the disease was nearly eradicated in the United States. Recently the USDA reclassified Michigan from “accredited-free” to “non-modified accredited” because TB was confirmed in several cattle herds and in several native white-tailed deer. Because of the ease of transmission of TB; the substantial number of animals imported to Wisconsin; and because the last known incident of TB in a bovine animal in Wisconsin involved a bovine that was imported from Michigan, the department has determined that

Wisconsin needs to regulate the import of animals that originate from “non-modified accredited” states.

Pre-Import Requirements

Under this emergency rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis “non-modified accredited” state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 months old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

Post-Import Testing

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

Post-Import Confinement

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

Exception

This emergency rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

FINDING OF EMERGENCY

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and

other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as “accredited-free” for tuberculosis.

(3) The USDA recently reclassified Michigan from “accredited-free” to “non-modified accredited,” reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin-raised animals.

EMERGENCY RULEMAKING ORDER

1 **SECTION 1.** Chapter ATCP 16 is created to read:

2 **CHAPTER ATCP 16**

3 **IMPORTING ANIMALS FROM TUBERCULOSIS**

4 **“NON-MODIFIED ACCREDITED” STATES**

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

1 (1) "Bovine animal" has the meaning given in s. ATCP 11.01(11).

2 (2) "Certificate of veterinary inspection" has the meaning given in s. ATCP
3 11.01(17).

4 (3) "Cervid" has the meaning given in s. ATCP 11.01(18m).

5 (4) "Federal bureau" has the meaning given in s. ATCP 11.01(30).

6 (5) "Feeder cattle" has the meaning given in s. ATCP 11.01(31)

7 (6) "Herd" has the meaning given in s. ATCP 11.01(37).

8 (7) "Non-modified accredited state" means a state that the federal bureau has
9 classified as a bovine tuberculosis non-modified accredited state.

10 (8) "Originates from a herd" has the meaning given in s. ATCP 11.01(58).

11 (9) "Originates from a state" has the meaning given in s. ATCP 11.01(58m).

12 (10) "Slaughtering establishment" has the meaning given in s. ATCP 11.01(71).

13 (11) "State veterinarian" has the meaning given in s. ATCP 11.01(74).

14 (12) "Tuberculosis" has the meaning given in s. ATCP 11.01(80).

15 (13) "Whole herd test" means a test in which every animal 6 months of age or
16 older in a herd is tested for tuberculosis using an approved test.

17 **ATCP 16.02 Bovine animals.** (1) PRE-IMPORT REQUIREMENTS. No person may
18 import to this state any bovine animal that originates from a non-modified accredited
19 state unless all the following apply:

20 (a) The animal is accompanied by a valid certificate of veterinary inspection that
21 complies with ss. ATCP 11.02 and 11.11(1). The certificate shall include all the
22 following information:

23 1. The identification number of the import permit required under par. (b).

1 2. The whole herd test result required under par. (c).

2 3. The individual test result required under par. (d).

3 (b) The department issues an import permit under s. ATCP 11.03.

4 (c) The animal originates from a herd that has tested negative on a whole herd
5 test conducted within 12 months prior to the import date.

6 (d) The animal has tested negative on a tuberculosis test conducted within 60
7 days prior to the import date, or is less than 6 months old on the import date.

8 **NOTE:** USDA rules for interstate shipment of animals may specify a different
9 time period for tuberculosis testing prior to interstate shipment. An
10 importer must comply with USDA rules; however, compliance with
11 USDA rules does not excuse a violation of par. (d).

12 (2) POST-IMPORT TESTING. A bovine animal imported to this state from a non-
13 modified accredited state shall be tested for tuberculosis not less than 90 days nor more
14 than 120 days after it is imported. This testing requirement does not apply to feeder
15 cattle imported for feeding prior to slaughter if all the following apply:
16

17 (a) The feeder cattle are confined to the premises at which they are first received
18 in this state, until they are shipped to slaughter.

19 (b) The feeder cattle, when shipped to slaughter, are accompanied by a USDA
20 form VS1-27.

21 (3) POST-IMPORT CONFINEMENT. Bovine animals imported from a non-modified
22 accredited state may not be commingled with any other animals in this state, or removed
23 from the premises at which they are first received in this state, until one of the following
24 occurs:

25 (a) The animals test negative for tuberculosis under sub. (2).

26 (b) The animals are shipped to a slaughtering establishment for slaughter.

1 (4) EXEMPTION. This section does not apply to animals that are imported directly
2 to a slaughtering establishment for slaughter.

3 **ATCP 16.03 Goats. (1) PRE-IMPORT REQUIREMENTS.** No person may import to
4 this state any goat that originates from a non-modified accredited state unless all the
5 following apply:

6 (a) The goat is accompanied by a valid certificate of veterinary inspection that
7 complies with s. ATCP 11.02. The certificate shall include all the following information:

- 8 1. The identification number of the import permit required under par. (b).
- 9 2. The whole herd test result required under par. (c).
- 10 3. The individual test result required under par. (d).

11 (b) The department issues an import permit under s. ATCP 11.03.

12 (c) The goat originates from a herd that has tested negative on a whole herd test
13 conducted within 12 months prior to the import date.

14 (d) The goat has tested negative on a tuberculosis test conducted within 60 days
15 prior to the import date, or is less than 6 months old on the import date.

16 **NOTE:** USDA rules for interstate shipment of animals may specify a different
17 time period for tuberculosis testing prior to interstate shipment. An
18 importer must comply with USDA rules; however, compliance with
19 USDA rules does not excuse a violation of par. (d).

20
21 (2) POST-IMPORT TESTING. A goat imported from a non-modified accredited
22 state shall be tested for tuberculosis not less than 90 days nor more than 120 days after it
23 is imported.

24 (3) POST-IMPORT CONFINEMENT. Goats imported from a non-modified accredited
25 state may not be commingled with any other animals in this state, or removed from the

1 premises at which they are first received in this state, until the goat tests negative for
2 tuberculosis under sub. (2).

3 (4) EXEMPTION. This section does not apply to goats that are imported directly
4 to a slaughtering establishment for slaughter.

5 **ACTP 16.04 Cervids. (1) PRE-IMPORT REQUIREMENTS.** No person may import
6 to this state any cervid that originates from a non-modified accredited state unless all the
7 following apply:

8 (a) The cervid is accompanied by a valid certificate of veterinary inspection that
9 complies with s. ATCP 11.02. The certificate shall include all the following information:

- 10 1. The identification number of the import permit required under par. (b).
- 11 2. The whole herd test result required under par. (c).
- 12 3. The individual test result required under par. (d).

13 (b) The department issues an import permit under s. ATCP 11.03.

14 (c) The cervid originates from a herd that has tested negative on a whole herd test
15 conducted within 12 months prior to the import date.

16 (d) The cervid has tested negative on a tuberculosis test conducted within 90 days
17 prior to the import date, or is less than 6 months old on the import date.

18 **NOTE:** USDA rules for interstate shipment of animals may specify a different
19 time period for tuberculosis testing prior to interstate shipment. An
20 importer must comply with USDA rules; however, compliance with
21 USDA rules does not excuse a violation of par. (d).

22
23 (2) POST-IMPORT TESTING. A cervid imported from a non-modified accredited
24 state shall be tested for tuberculosis not less than 90 days nor more than 120 days after it
25 is imported.


1 (3) POST-IMPORT CONFINEMENT. Cervids imported from a non-modified
2 accredited state may not be commingled with any other animals in this state until the
3 cervid tests negative for tuberculosis under sub. (2).

4 (4) EXEMPTION. This section does not apply to cervids that are imported directly
5 to a slaughtering establishment for slaughter.

6 **EFFECTIVE DATE:** This emergency rule shall take effect on the day it is
7 published and shall remain in effect for 150 days. The department may seek to extend
8 this emergency rule as provided in s. 227.24, Stats.

Dated this 7 day of August, 2000.

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION**



Ben Brancel
Secretary

FISCAL ESTIMATE

LRB or Bill No. / Adm. Rule No.
ATCP 16

DOA-2048 N(R 10/98)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Amendment No. (If Applicable)

Subject

DATCP emergency rule changes to chs. ATCP 16 relating to imports from non-modified accredited TB states.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues

Decrease Existing Appropriation Decrease Existing

Decrease Costs

Revenues

Create New Appropriation

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Unit Affected:

Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Source Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

50.115 (2a)

Assumptions Used in Arriving at Fiscal Estimate

This emergency rule changes cattle, goat and Cervidae import health requirements for non-modified accredited states for tuberculosis. This rule will require a pre-entry import permit. This emergency rule also requires a whole herd negative TB test on the herd of origin within 12 months prior to import into WI. The rule also requires retesting of imported animals at owner's expense after importation. Animals will be quarantined until retesting is completed.

It is estimated that up to 20 alleged illegal import cases may require investigation and resolution during the period this emergency rule is in affect. Each case is expected to require 4.5 hours of employee time. Total cost will be approximately \$2,000. This time can be accommodated with existing staff and through reprioritization of work assignments in the field

Agency/prepared by: (Name & Phone No.)

DATCP Clarence Siroky 608-224-4872

Authorized Signature/Telephone No.

Barbara Knapp (608) 224-4746

Date

8/8/00

FISCAL ESTIMATE WORKSHEET

2000 SESSION

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm.Rule No. Amendment No.
ATCP 16

Subject

Imports from non-modified accredited TB states

I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
\$2,000

II. Annualized Cost:

Annualized Fiscal Impact on State funds from:

A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes		\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category		\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 2,000	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues -	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 2,000	\$
NET CHANGE IN REVENUES	\$	\$

Agency Prepared by: (Name & Phone No.) DATCP Clarence Siroky 608-224-4872	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 8/8/00
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