

CR 93-84

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

SS.


Docket No. 2422

CERTIFICATION:

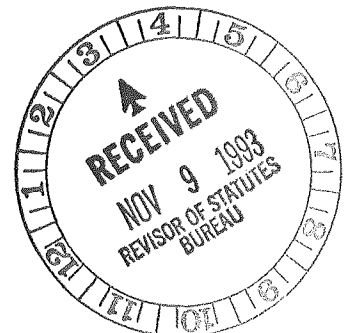
I, Alan T. Tracy, Secretary of the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, do hereby certify that the annexed rules relating to equine infectious anemia regulation were duly adopted by the department on the 4th day of November, 1993.

I further certify that this copy has been compared by me with the original on file in the department and that it is a true and complete copy of the original.

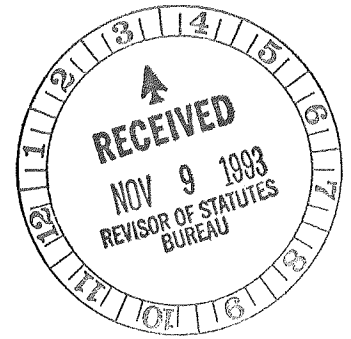
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the department offices in the city of Madison, this 8th day of November, 1993.



Alan T. Tracy
Secretary



2-1-94



1 ORDER OF THE STATE OF WISCONSIN

2 DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

3 ADOPTING RULES

4 The Wisconsin department of agriculture, trade and consumer
5 protection adopts the following order to repeal ATCP 11.60(3)5;
6 to renumber ATCP 11.60 (3)1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13,
7 14, 15, 16, 17 and 18; to amend ATCP 10.70(1), ATCP
8 11.30(1)(a)(intro.) and 2, ATCP 11.30(2)(a), ATCP 11.60(3)(Note),
9 and ATCP 11.70(1); and to create ATCP 10.01(20m), (20p), and
10 (20q), subchapter V of chapter ATCP 10, ATCP 11.01(24p) and
11 (24q), ATCP 11.33, ATCP 11.34 and ATCP 11.62(6); relating to
12 equine infectious anemia.

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

Statutory Authority: ss. 93.07(1), 95.18, 95.19(3), 95.20 and
95.23 Stats.

Statutes Interpreted: ss. 95.18, 95.19 and 95.20 Stats.

Equine infectious anemia is a contagious and infectious disease of equine animals (horses) that is spread primarily by flies. This rule establishes testing, quarantine and branding procedures related to equine infectious anemia.

Testing for Equine Infectious Anemia

This rule defines an "equine infectious anemia test" as a test approved by the department, and conducted at a department laboratory or a laboratory approved by the federal bureau, to determine whether an animal is infected with equine infectious anemia.

Every blood sample drawn for an equine infectious anemia test must be drawn by a licensed accredited veterinarian. The veterinarian must identify the tested animal, and must include the identification with the test sample so that the tested animal can be uniquely identified. Acceptable forms of identification include the following:

- Breed registration freeze brand number.
- Registration lip tattoo.
- Complete and accurate description of the equine animal.
- Another form of identification approved by the department.

"Exposed" Animals; Quarantine

Under this rule, the department must summarily quarantine every equine animal which, in the department's judgment, has been exposed to a test positive animal. An animal kept within 300 yards of a test positive animal is considered exposed unless the department's epidemiologist determines that no exposure has occurred. A person adversely affected by a quarantine is entitled to a hearing on the quarantine if that person requests a hearing within 30 days after the quarantine is served.

If the department quarantines an exposed animal, the owner or custodian of that animal must have the animal tested for equine infectious anemia not less than 45 days after the last date of exposure to the test positive animal. The test must be performed not more than 60 days after the last exposure, or not more than 15 days after the department's quarantine order is served, whichever test deadline is later. If the animal tests negative, the department must release the quarantine. If the animal tests positive, the department must quarantine the animal as a test positive animal.

"Test Positive" Animals; Quarantine

Under this rule, the department must summarily quarantine every animal that tests positive on an equine infectious anemia test. A person adversely affected by a quarantine is entitled to a hearing on the quarantine if that person requests a hearing within 30 days after the quarantine is served.

If the department quarantines a test positive animal, the department must retest the animal if, within 10 days after the quarantine notice is served, the owner or custodian of that animal makes a written request for a retest. A retest fee of \$25.00 is charged to the owner or custodian who asked for the retest. If the retest fails to confirm the initial positive test, the department may release the quarantine.

Branding Test Positive Animals

Under this rule, if a test positive animal has been quarantined by the department, the state veterinarian shall, by written notice, order that the animal be permanently branded as a test positive animal. The state veterinarian may not issue a branding order if the time period for requesting a hearing or retest has not yet elapsed, if a hearing or retest is in progress, if a retest fails to confirm the initial positive test result, if the department has released its quarantine, if the state veterinarian is restrained by judicial order or by order of the department's secretary or hearing examiner, or if the state veterinarian has determined that branding is not appropriate or necessary.

A state or federal veterinarian must execute the branding order by placing a "35A" freeze brand on the left side of the animal's neck. A branding order may not be executed sooner than 14 days after the order is served, unless the animal's owner and custodian agree in writing to an earlier branding date.

Quarantine Terms and Conditions

An equine animal quarantined under this rule must be kept in a stall that is screened against flies, or must be kept at least 300 yards from other equine animals not known to be infected with equine infectious anemia. This restriction also applies to EIA branded animals.

Imports of Equine Animals

Under current rules, subject to certain exceptions, no equine animal may be imported into this state unless the animal tests negative for equine infectious anemia within 12 months prior to entering this state. Under this rule, subject to the same exceptions, the animal must test negative within 6 months prior to entering this state.

Equine Animals; Intrastate Movement

Under current rules, no person may sell or move any animal which is infected with or exposed to equine infectious anemia, whether or not the person knows the animal is infected with or exposed to the disease. The rule repeals this prohibition. Instead, it prohibits any person from knowingly moving, selling or transferring custody of an animal that is test positive for equine infectious anemia or that is quarantined for equine infectious anemia without first obtaining a permit from the department. The department must grant or deny the permit within 5 days after it is requested.

Equine Animals; Sale

The rule prohibits sale or transfer of ownership of any equine animal in this state unless the animal has been tested for equine infectious anemia within 6 months prior to the sale. If the horse tests positive, the horse may not be sold unless the department issues a permit for the sale. A foal accompanying its dam and an equine animal being sold to a market for sale directly to slaughter are exempt from the testing requirement.

Equine Animals; Fairs and Exhibitions

Current rules define "fair" to include a state fair, county or district fair, exhibition, show, exposition, rodeo or trail ride. Under this rule, no person may exhibit an equine animal at a "fair" or livestock exhibition unless the animal tests negative for equine infectious anemia within 6 months before being moved to the fair or exhibition. The sponsors of a "fair" or exhibition must keep records identifying the persons who own equine animals exhibited at the fair or exhibition. Records must be kept for at least 2 years, and must be available for inspection and copying by the department upon request.

1 SECTION 1. ATCP 10.01 (20m), (20p) and (20q) are created to
2 read:

3 (20m) "Equine animal" means a horse, mule, zebra, donkey or
4 ass.

5 (20p) "Equine infectious anemia," otherwise known as EIA or
6 swamp fever, means the contagious and infectious disease of
7 equine animals caused by a non-oncogenic retrovirus.

8 (20q) "Equine infectious anemia test" means a test approved
9 by the department, and conducted at a department laboratory or a
10 laboratory approved by the federal bureau, to determine whether
11 an animal is infected with equine infectious anemia.

12

1 SECTION 2. Subchapter V of chapter ATCP 10 is created to
2 read:

3 SUBCHAPTER V

4 EQUINE DISEASES

5 ATCP 10.40 EQUINE INFECTIOUS ANEMIA; TESTING. (1) SAMPLE
6 DRAWN BY VETERINARIAN. A licensed accredited veterinarian shall
7 draw every equine blood sample used for an equine infectious
8 anemia test.

9 (2) SAMPLE IDENTIFICATION. The veterinarian who draws the
10 blood sample for an equine infectious anemia test shall identify
11 the equine animal from which the sample was collected. The
12 identification shall accompany the blood sample submitted for
13 testing. The following are acceptable forms of identification:

14 (a) A breed registration freeze brand number that uniquely
15 identifies the animal.

16 (b) A registration lip tattoo that uniquely identifies the
17 animal.

18 (c) A complete and accurate description of the equine
19 animal, prepared by the veterinarian who collected the sample.

20 (d) Another form of identification approved by the
21 department.

22 ATCP 10.41 EQUINE INFECTIOUS ANEMIA; QUARANTINE. (1)
23 TEST POSITIVE ANIMAL; QUARANTINE. The department shall summarily
24 quarantine every equine animal that tests positive on an equine
25 infectious anemia test. The quarantine notice shall comply with
26 s. ATCP 10.70 and shall also include all of the following:

1 (a) Notice of the positive equine infectious anemia test.

2 (b) Notice that the owner or custodian may request a retest
3 under sub. (4).

4 (c) Notice that the state veterinarian may order the animal
5 to be branded under sub. (7).

6 (2) EXPOSED ANIMAL; QUARANTINE. (a) The department shall
7 summarily quarantine every equine animal which, in the
8 department's judgment, has been exposed to an equine animal that
9 has tested positive on an equine infectious anemia test. The
10 quarantine notice shall comply with s. ATCP 10.70.

11 NOTE: An exposed animal includes, but is not limited to,
12 an animal that is deemed to be exposed under par. (b).
13

14 (b) An equine animal kept within 300 yards of an equine
15 animal that has tested positive on an equine infectious anemia
16 test is considered exposed under par. (a) unless the department's
17 epidemiologist determines, following investigation, that it has
18 not been exposed.

19 (c) If the department quarantines an exposed animal under
20 par. (a) the owner or custodian of that animal shall have that
21 animal tested for equine infectious anemia. The exposed animal
22 shall be tested not less than 45 days after the last date on
23 which that animal was exposed to an equine animal that has tested
24 positive on an equine infectious anemia test. The test shall be
25 performed not more than 60 days after the last exposure, or not
26 more than 15 days after the department's quarantine order is
27 served, whichever test deadline is later.

28

1 (d) The department shall release a quarantine issued under
2 par. (a) if the quarantined animal tests negative on an equine
3 infectious anemia test under par. (c).

4 (e) If an equine animal quarantined under par. (a) tests
5 positive for equine infectious anemia, the department shall
6 extend the quarantine on that animal by issuing a quarantine
7 notice under sub. (1).

8 (3) HEARING REQUEST. A person adversely affected by a
9 quarantine under sub. (1) or (2) may, within 30 days after the
10 quarantine is served, request a hearing on the quarantine as
11 provided under s. ATCP 10.70(6). A request for hearing does not
12 automatically stay a quarantine notice.

13 (4) RETESTING UPON REQUEST. The department shall retest an
14 animal quarantined under sub. (1) if, within 10 days after the
15 quarantine notice is served, the department receives a written
16 request for a retest from the owner or custodian of the
17 quarantined animal. A request for a retest does not stay a
18 quarantine notice under sub. (1). A retest fee of \$25.00 shall
19 be charged to the owner or custodian who requested the retest.

20 (5) RETEST PROCEDURE. If an equine animal is retested
21 under sub. (4), a state or federal veterinarian shall positively
22 identify the retested animal as being the same animal originally
23 tested. The state or federal veterinarian who identifies the
24 retested animal shall draw the blood sample for the retest. The

1 blood sample for the retest shall be drawn not less than 14 days
2 after the department receives the written request nor more than
3 45 days after the blood sample for the initial test was drawn.

4 (6) QUARANTINE RELEASE BASED ON RETEST. If a retest under
5 sub. (4) indicates that the original test result may have been a
6 false positive, the department may release the quarantine issued
7 under sub. (1). The release of a quarantine under sub. (1) does
8 not prevent the department from issuing a quarantine under sub.
9 (2) for the same animal if the 45 day time period under sub.
10 (2)(c) has not yet expired.

11 (7) ORDER TO BRAND TEST POSITIVE ANIMAL. The state
12 veterinarian shall, by written notice, order that a test positive
13 animal quarantined under sub. (1) be branded under sub. (8). The
14 order shall be served on the owner and on the custodian of the
15 animal to be branded. The state veterinarian shall not issue a
16 branding order under this subsection if any of the following
17 apply:

18 (a) The time for requesting a hearing or retest under sub.
19 (3) or (4) has not yet elapsed.

20 (b) A hearing has been requested under sub. (3) and the
21 contested case proceeding is not yet completed.

22 (c) A retest has been requested under sub. (4) and has not
23 yet been completed.

24 (d) A retest has failed to confirm the initial test result
25 that prompted the quarantine.

26

1 (e) The state veterinarian is restrained by a judicial
2 order, or by order of the department's secretary or hearing
3 examiner under ch. ATCP 1.

4 (f) The department has released its quarantine under sub.
5 (1).

6 (g) The state veterinarian determines that branding is not
7 appropriate or necessary.

8 (8) BRANDING TEST POSITIVE ANIMALS. (a) A state or
9 federal veterinarian shall execute a branding order under sub.
10 (7) by applying a "35A" freeze brand to the left side of the
11 animal's neck. A branding order may not be executed under this
12 paragraph sooner than 14 days after the order is served on the
13 owner and custodian of the animal, unless the owner and custodian
14 consent in writing to have the animal branded at an earlier date.

15 (b) An equine animal branded under this section is
16 quarantined to the extent provided under sub. (9)(a), but is no
17 longer quarantined under sub. (1).

18 (c) No person may, except by judicial or administrative
19 process, prevent a state or federal veterinarian from executing a
20 branding order in compliance with this subsection.

21 (9) QUARANTINE TERMS AND CONDITIONS. (a) An equine animal
22 quarantined under sub. (1), (2) or (8)(b) shall be kept in a
23 tightly screened stall that is secure against the movement of
24 flies, or shall be kept a minimum of 300 yards from other equine
25 animals not known to be infected with equine infectious anemia.

1 (b) No person may move, sell or transfer custody of an
2 equine animal quarantined under sub. (1), (2) or (8)(b), without
3 a permit from the department. The department shall grant or deny
4 the permit within 5 days after the permit is requested.

5 SECTION 3. ATCP 10.70(1) is amended to read:

6 ATCP 10.70(1) SUMMARY ACTION. The department may summarily
7 issue quarantine orders to control contagious, infectious or
8 communicable diseases which may affect domestic or exotic animals
9 in this state. No person may ~~remove~~ move any animal from
10 ~~premises under~~ in violation of a quarantine order, or fail to
11 comply with the terms and conditions of a quarantine order.

12 SECTION 4. ATCP 11.01(24p) and (24q) are created to read:

13 (24p) "Equine infectious anemia," otherwise known as EIA or
14 swamp fever, means the contagious and infectious disease of
15 equine animals caused by a non-oncogenic retrovirus.

16 (24q) "Equine infectious anemia test" means a test approved
17 by the department, and conducted at a department laboratory or a
18 laboratory approved by the federal bureau, to determine whether
19 an animal is infected with equine infectious anemia.

20 SECTION 5. ATCP 11.30(1)(a)(intro.) is amended to read:

21 ATCP 11.30 (1)(a)(intro.) Requirement. Except as provided
22 under par. (b), no person may import any equine animal into this
23 state unless the animal is accompanied by a valid interstate
24 health certificate or certificate of veterinary inspection issued

25

1 not more than 30 days before the animal enters this state. The
2 certificate shall comply with applicable requirements under s.
3 ATCP 11.02, and shall also include the following information:

4 SECTION 6. ATCP 11.30(1)(a)2 is amended to read:

5 ATCP 11.30(1)(a)2 A report of a negative test for equine
6 infectious anemia conducted not more than ~~12~~ 6 months before the
7 animal enters this state, unless the animal is exempt from
8 testing under sub. (2).

9 SECTION 7. ATCP 11.30(2)(a) is amended to read:

10 ATCP 11.30(2)(a) Requirement. Except as provided under par.
11 (b), no person may import any equine animal into this state
12 unless the animal tests negative ~~for equine infectious anemia in~~
13 a on an equine infectious anemia test conducted not more than ~~12~~
14 6 months before the animal enters this state. ~~The test shall be~~
15 ~~conducted at a state laboratory, or at a laboratory approved by~~
16 ~~the federal bureau, and shall use the agar gel immuno-diffusion~~
17 ~~method or another test method approved by the department.~~

18 SECTION 8. ATCP 11.33 is created to read:

19 ATCP 11.33 MOVEMENT SALE OR TRANSFER OF ANIMALS INFECTED
20 WITH EQUINE INFECTIOUS ANEMIA. No person may knowingly move or
21 transfer custody of an animal that has tested positive for equine
22 infectious anemia, or that is subject to a quarantine under s.
23 ATCP. 10.41, without first obtaining a permit from the
24 department. The department shall grant or deny a permit
25 application within 5 days after the department receives a
26 complete application in writing.

1 SECTION 9. ATCP 11.34 is created to read:

2 ATCP 11.34 SALE OR TRANSFER OF OWNERSHIP OF EQUINE ANIMALS.

3 (1) TEST REQUIRED. Except as provided under sec. (2), no person
4 may sell or transfer ownership of any equine animal in this state
5 unless the animal was tested for equine infectious anemia not
6 more than 6 months before the animal is sold. If the equine
7 animal tested positive, the person selling or transferring
8 ownership of the equine animal must obtain a permit under s. ATCP
9 11.33 prior to the sale.

10 (2) EXEMPTIONS. A pre-sale or pre-transfer test is not
11 required under sec. (1) for either of the following:

12 1. A nursing foal accompanying its dam.

13 2. An equine animal sold directly to an equine market or
14 consigned to a livestock market for sale directly to slaughter,
15 provided that if the equine is not sold to slaughter, the equine
16 shall be tested prior to movement out of the market.

17 SECTION 10. ATCP 11.60(3)1, 2, 3, and 4 are renumbered ATCP
18 11.60(3)(a), (b), (c) and (d).

19 SECTION 11. ATCP 11.60(3) 5. is repealed.

20 SECTION 12. ATCP 11.60(3) 6, 7, 8, 9, 10, 11, 12, 13, 14,
21 15, 16, 17, and 18 are renumbered ATCP 11.60(3)(e), (f), (g),
22 (h), (i), (j), (k), (L), (m), (n), (o), (p), and (q).

23 SECTION 13. ATCP 11.60(3)(Note) is amended to read:

24 ATCP 11.60(3)(Note) Animals infected with or exposed to other
25 contagious or infectious diseases, not listed under this
26 subsection, may be quarantined at the discretion of the

1 department under s. ATCP 11.70. Animals infected with or exposed
2 to equine infectious anemia are subject to quarantine under s.
3 ATCP 10.41.

4 SECTION 14. ATCP 11.62(6) is created to read:

5 ATCP 11.62(6) EQUINE ANIMALS. (a) No person may exhibit
6 any equine animal at a fair or livestock exhibition unless the
7 equine animal tests negative on an equine infectious anemia test
8 within 6 months before being moved to the fair or livestock
9 exhibition.

10 (b) The sponsors of a fair or livestock exhibition shall
11 record the name and address of every person who owns an equine
12 animal exhibited at the fair or exhibition. The sponsors shall
13 keep the record for at least 2 years, and shall make it available
14 to the department for inspection and copying upon request.

15 SECTION 15. ATCP 11.70(1) is amended to read:

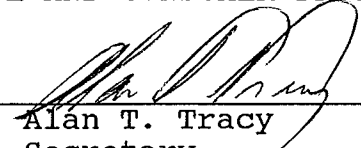
16 ATCP 11.70(1) SUMMARY ACTION. The department may summarily
17 issue quarantine orders to control contagious, infectious or
18 communicable diseases which may affect domestic or exotic animals
19 in this state. No person may ~~remove~~ move any animal ~~from~~
20 ~~premises under~~ in violation of a quarantine order, or fail to
21 comply with the terms and conditions of a quarantine order.

22

1 SECTION 16. The rules contained in this order shall take
2 effect on the first day of the month following publication in the
3 Wisconsin administrative register, as provided under s.
4 227.22(2)(intro.), Stats.

Dated this 4th day of Nov, 19 93.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Alan T. Tracy
Secretary

