



State of Wisconsin
Tommy G. Thompson, Governor

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

Date: February 2, 2001

TO: The Honorable Fred Risser
President, Wisconsin State Senate
Rm. 220 S, State Capitol
Madison, WI 53707

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Rm. 211 W, State Capitol
Madison, WI 53708

FROM: Ben Brancel, Secretary *Ben Brancel*
Department of Agriculture, Trade and Consumer Protection

SUBJECT: **Johne's Disease Testing Grants; Rules (Clearinghouse Rule No. 00-146)**

The Department of Agriculture, Trade and Consumer Protection (DATCP) hereby transmits the above rule for legislative committee review pursuant to ss. 227.19 (2) and (3) Stats. We are enclosing three copies of the final draft rule, together with the following report. We will publish a notice of this referral in the Wisconsin administrative register, pursuant to s. 227.19 (2) Stats.

Rule Background And Summary

This rule creates standards for the Johne's disease testing grant program created by 1999 Wis. Act 9. Under s. 95.195, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classifications, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

The biennial budget act (1999 Wis. Act 9) provided \$100,000 in grant funds in FY 2000-01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner. DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's allowed claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

Public Hearings

DATCP held public hearings on November 28, 2000 in Madison and November 30, 2000 in Eau Claire. DATCP also accepted written comments until December 8, 2000 for inclusion in the hearing record. *Appendix A* contains a summary of hearing testimony, along with a list of persons attending, testifying or submitting written comments for the hearing record.

Changes Following Public Hearings

There was no testimony at the public hearings that suggested any need for changes in the Johne's disease testing grant program. However, there was testimony alerting DATCP to two technical errors in current animal health rules. These technical errors pertain to equine rules, not Johne's disease rules. The technical errors occurred in the recent comprehensive overhaul of DATCP animal health rules.

This final draft rule corrects the two technical errors as follows:

- It reinstates an (inadvertently repealed) equine infectious anemia testing exemption for a nursing foal accompanying its dam to a livestock show or exhibition, provided the dam meets the test requirement.
- It eliminates an obsolete reference to an equine infectious anemia quarantine testing provision that no longer exists.

Response To Rules Clearinghouse Comments

The Legislative Council Rules Clearinghouse made three comments on the hearing draft rule.

- The Clearinghouse suggested adding a note referencing a new form used by DATCP to obtain information about a producer's testing costs. DATCP added the note in the final draft rule.
- The Clearinghouse noted an incorrect reference which DATCP corrected in the final draft rule.
- The Clearinghouse asked DATCP to review a rule provision requiring herd owners to document test costs. DATCP reviewed this provision and concluded that no change was necessary. A herd owner will be billed for laboratory costs either directly by the laboratory or as an item on a bill from the veterinarian who collected the specimens. A herd owner may submit bills from either source to substantiate the laboratory costs the owner incurred. By allowing substantiation from either source, the department is making it easier for the animal owner to participate in the program.

Fiscal Estimate

DATCP estimates that 2400 herds will be classified over a 12 month period and that 80% of the herd owners will file a reimbursement claim. If each claim requires 20 minutes to review and enter data for payment, the cost for salary and fringe will be \$12,600. DATCP estimates postage will cost \$600 per year. DATCP will absorb these costs by reprioritizing staff assignments and expenses.

This estimate covers costs for the first year of the program only. Herd participation is expected to increase approximately 20 to 50% each year. This will increase DATCP costs at a similar rate. At some point, DATCP may not be able to absorb the costs. A complete fiscal estimate is attached as *Appendix B*.

Small Business Analysis

This rule will help cattle owners by reimbursing Johne's disease testing costs. DATCP has minimized procedural requirements related to reimbursement applications, so that it will be easy for herd owners to apply. DATCP has included only those requirements that are necessary to ensure financial accountability in the distribution of public funds. This rule gives herd owners a substantial amount of time to apply for reimbursement. Herd owners must simply document the laboratory costs for which they seek reimbursement. DATCP will give herd owners information on how to apply. A small business analysis (regulatory flexibility analysis) is attached as *Appendix C*.

Appendix A

SUMMARY OF PUBLIC HEARINGS

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) held public hearings in Madison and Eau Claire.

Two hearings were held:

Madison, November 28, 2000

Eau Claire, November 30, 2000

Madison, Wisconsin
November 28, 2000

Registered: Thomas J. Knauer, DATCP

Support:	0
Opposed:	0
Neither:	0
Other:	1

Mr. Knauer testified about two technical errors in current animal health rules pertaining to equines. He testified that in the recent comprehensive overhaul of DATCP animal health rules, the department inadvertently repealed an equine infectious anemia testing exemption for a nursing foal accompanying its dam to a livestock show or exhibition, provided the dam meets the test requirement.

Mr. Knauer also testified that current equine rules contain an obsolete cross reference to an equine infectious anemia quarantine testing provision that no longer exists.

Eau Claire, Wisconsin
November 30, 2000

No one attended this hearing.

Appendix B

FISCAL ESTIMATE

DOA-2048 N(R10/98)

- ORIGIN UPDATED
 CORRECTED SUPPLEMENTAL

2001 Session

LRB No. SBA/Adm. Rule No.

ATCP 10.21

Amendment No. If Applicable

Subject

DATCP Proposed Creation of ATCP 10.21(10)(c)(15) relating to reimbursement of Johne's Disease test co

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

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

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 Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.115(2)(a) and (2)(c)

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule established requirements to claim partial reimbursement of testing costs related to herd classification testing for Johne's Disease. Herd owners must file a claim for reimbursement with the department by February 1 of the year following the year in which the herd was classified. The herd owner must submit copies of bills for the laboratory costs charged to the owner. DATCP will reimburse all or part of the claim depending on available funding (\$100,000 at this time) and number of claims.

It is estimated that 2,400 herds will be classified over a 12 month period of which approximately 80% of the herd owners will file a reimbursement claim. Each claim is expected to require 20 minutes to review and complete data entry for payment. The total cost will be approximately \$13,200 (\$12,600 for salary and fringe and \$600 for postage). This time can be accommodated with existing staff and through reprioritization of work assignments in the office.

Long-Range Fiscal Implications

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

Dept of Agriculture, Trade & Consumer Protection

Clarence Siroky
DATCP Clarence Siroky (608) 224-4872

Authorized Signature/Telephone No.

Barbara Knapp
Barbara Knapp (608) 224-4746

Date

Dec. 18, 2000

Appendix C

Final Regulatory Flexibility Analysis

This rule establishes standards for the grant program created by 1999 Wis. Act 9 to assist cattle owners in paying for Johne's disease testing. It will affect cattle owners who wish to obtain reimbursement for a portion of the costs incurred to test their herds for Johne's disease.

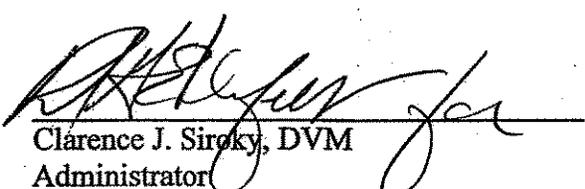
When a herd owner has his herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim no later than February 1 of the year following the calendar year in which the herd was tested. The owner must provide copies of bills from either the veterinarian or the laboratory to establish amount of laboratory costs incurred.

This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after the testing is conducted. This allows significant flexibility for the animal owner.

It is not anticipated that the animal owner will need any significant professional skills to complete the claim form and become eligible for a grant under this rule.

Dated this 20 day of December, 2000.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION


Clarence J. Siroky, DVM
Administrator
Division of Animal Health

**PROPOSED 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
- 2 proposes the following order to amend ATCP 10.41(6), and to create ATCP 10.21(10)(c)
- 3 and (15), and 11.62(6)(am) relating to reimbursement of Johne's disease testing costs,
- 4 exhibiting an equine animal at a fair or livestock exhibition, and releasing a quarantine
- 5 following a retest for equine infectious anemia.

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

Statutory Authority: ss. 93.07(1), and 95.197(2), Wis. Stats.
Statute Interpreted: s. 95.197, Wis. Stats.

Johne's disease (paratuberculosis) is a serious disease of cattle. The 1999-2001 biennial budget act (1999 Wis. Act 9) established a grant program to help cattle owners pay for Johne's disease testing. The department of agriculture, trade and consumer protection (DATCP) administers the grant program. This rule establishes standards for the grant program, as required by the biennial budget act.

Background

Under s. 95.195, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classifications, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

Grant Program

The biennial budget act (1999 Wis. Act 9) provided \$100,000 in grant funds FY 2000-01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner. DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's allowed claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

Equine Infectious Anemia; Technical Rule Corrections

DATCP recently adopted comprehensive revisions to animal health rules under chs. ATCP 10-12, which took effect on December 1, 2000. At the public hearings on this Johne's disease testing grant rule, there was testimony identifying minor technical errors in those rule revisions. The minor technical errors pertain to equine rules, not Johne's disease rules. This rule corrects those minor technical errors, as follows:

- Under current DATCP rules, an equine animal housed with an EIA positive animal must be quarantined until the quarantined animal tests negative for EIA. Prior to December 1, 2000, DATCP rules provided that the test could not be conducted sooner than 45 days after the quarantined animal was last exposed to the EIA positive animal. Effective December 1, 2000, DATCP repealed the required 45-day time delay but failed to delete one obsolete cross-reference to that time delay. This rule deletes that obsolete cross-reference.
 - Current DATCP rules prohibit a person from exhibiting an equine animal at a fair or livestock exhibition unless the equine animal has tested negative for EIA during the preceding 12 months. Before December 1, 2000, there was an exception for a nursing foal accompanying its dam (if the dam had tested negative for EIA). In the comprehensive overhaul of animal health rules that took effect on December 1, 2000, DATCP inadvertently deleted the exemption for nursing foals. This rule reinstates the exemption.
-

1 **SECTION 1.** ATCP 10.21(10)(c) is created to read:

2 ATCP 10.21(10)(c) *Eligibility for reimbursement.* Notice that the herd owner
3 may apply for reimbursement of testing costs, according to sub. (15).

4 **SECTION 2.** ATCP 10.21(15) is created to read:

5 ATCP 10.21(15) REIMBURSEMENT OF ANNUAL HERD TEST COSTS. (a) *Eligibility.*

6 A herd owner who asks the department to classify a herd under sub. (3) based on an
7 annual herd test performed under sub. (5) may apply for reimbursement of laboratory
8 testing costs under sub. (7).

9 (b) *Reimbursement claim.* To apply for reimbursement of annual herd test costs
10 under par. (a), a herd owner shall file a claim with the department by February 1 of the
11 year following the year in which the herd is tested and classified. The herd owner shall
12 apply on a form provided by the department. The herd owner shall submit copies of bills
13 from the veterinarian or laboratory that establish the amount of laboratory test costs that
14 the herd owner incurred.

15 **NOTE:** A copy of the form may be obtained by contacting:

16 Wisconsin Department of Agriculture, Trade and Consumer Protection
17 Division of Animal Health
18 P.O. Box 8911
19 Madison, WI 53708-8911
20 Phone: (608) 224-4872
21

22 (c) *Claims disallowed.* The department may disallow all or part of a claim under
23 par. (b) if the department finds that the herd owner has misrepresented or falsified any
24 part of a claim.

25 (d) *Reimbursement payments.* The department shall reimburse a herd owner's
26 allowed claim by June 30 of the year following the year which the owner's herd was
27 tested and classified. If allowed claims exceed available funding, the department shall

1 pay each herd owner a pro rata share based on the amount of each herd owner's allowed
2 claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent
3 year.

4 **SECTION 3.** ATCP 10.41(6) is amended to read:

5 ATCP 10.41(6) QUARANTINE RELEASE BASED ON RETEST. If a retest under sub.
6 (4) indicates that the original test may have been a false positive, the department may
7 release the quarantine issued under sub. (1). ~~The release of a quarantine under sub. (1)~~
8 ~~does not prevent the department from issuing a quarantine under sub. (2) for the same~~
9 ~~animal if the 45 day time period under sub. (2) has not yet expired.~~

10 **SECTION 4.** ATCP 11.62(6)(am) is created to read:

11 ATCP 11.62(6)(am) Paragraph (a) does not apply to a nursing foal accompanying
12 its dam if the dam has tested negative for equine infectious anemia according to par. (a).

13 **EFFECTIVE DATE.** The rules contained in this order shall take effect on the
14 first day of the month following publication in the Wisconsin administrative register, as
15 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

FEB 07 2001

Clearinghouse No. 00-146
Docket No. 99-R-11

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

**NOTICE OF SUBMISSION OF PROPOSED RULES TO PRESIDING
OFFICERS OF EACH HOUSE OF THE LEGISLATURE**

NOTICE IS HEREBY GIVEN, pursuant to Wis. Stat. § 227.19(2), that the State of Wisconsin Department of Agriculture, Trade and Consumer Protection is submitting a final draft of proposed Clearinghouse Rule Number 00-146 to the presiding officer of each house of the legislature for standing committee review. The proposed rule modifies Wis. Admin. Code ch. 10 and 11. The rule relates to the reimbursement of John's disease testing costs. It also makes minor technical changes to current equine rules.

Dated this 7 day of February, 2001.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel
Secretary

JAN 10 2001

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 to create ATCP 10.21(10)(c) and (15) relating to reimbursement of Johne's disease testing costs. The public hearing will be held on Tuesday, February 13, 2001 at 2:00 p.m. at the following location:

Department of Agriculture, Trade and Consumer Protection
Prairie Oak State Office Building
Room 106
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 Wednesday, February 14, 2001 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 Monday, February 5, 2001 either by writing to Lynn Miller, Division of Animal Health, P.O. Box 8911, Madison, WI 53708-8911 (telephone 608 224-4883) or by calling the Department TDD at 224-5058.

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

Statutory Authority: ss. 93.07(1), and 95.197(2), Wis. Stats.
Statute Interpreted: s. 95.197, Wis. Stats.

Johne's disease (paratuberculosis) is a serious disease of cattle. The 1999-2001 biennial budget act (1999 Wis. Act 9) established a grant program to help cattle owners pay for Johne's disease testing. The department of agriculture, trade and consumer protection (DATCP) administers the grant program. This rule establishes standards for the grant program, as required by the biennial budget act.

Background

Under s. 95.195, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

COPY

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classifications, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

Grant Program

The biennial budget act (1999 Wis. Act 9) provided \$100,000 in grant funds FY 2000-01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner.

DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's allowed claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

FINDING OF EMERGENCY

The state of Wisconsin department of agriculture, trade and consumer protection ("department") finds that an emergency exists and that the following emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

1. 1999 Wisconsin Act 9 was published on October 28, 1999. It appropriates \$100,000 for financial assistance to owners of livestock herds for conducting testing for Johne's disease (paratuberculosis) for FY 2000-01. It requires the department to provide the financial assistance.
2. 1999 Wisconsin Act 9 requires the department to promulgate rules for implementing the financial assistance program.
3. Permanent rules establishing the program will not take effect before June 1, 2001. This emergency rule establishes an interim procedure which will allow owners of livestock herds to apply for grants under this program. Without this rule, no person would be able to apply for a grant in FY 2000-01 until at least June 1, 2001, and the department would have insufficient time to review and process the grant requests before the end of the fiscal year

COPY

SECTION 1. ATCP 10.21(10)(c) is created to read:

ATCP 10.21(10)(c) *Eligibility for reimbursement.* Notice that the herd owner may apply for reimbursement of testing costs, according to sub. (15).

SECTION 2. ATCP 10.21(15) is created to read:

ATCP 10.21(15) REIMBURSEMENT OF ANNUAL HERD TEST COSTS. (a) *Eligibility.* A herd owner who asks the department to classify a herd under sub. (3) based on an annual herd test performed under sub. (5) may apply for reimbursement of laboratory testing costs under sub. (7).

(b) *Reimbursement claim.* To apply for reimbursement of annual herd test costs under par. (a), a herd owner shall file a claim with the department by February 1 of the year following the year in which the herd is tested and classified. The herd owner shall apply on a form provided by the department. The herd owner shall submit copies of bills from the veterinarian or laboratory that establish the amount of laboratory test costs that the herd owner incurred.

(c) *Claims disallowed.* The department may disallow all or part of a claim under par. (b) if the department finds that the herd owner has misrepresented or falsified any part of a claim.

(d) *Reimbursement payments.* The department shall reimburse a herd owner's allowed claim by June 30 of the year following the year which the owner's herd was tested and classified. If allowed claims exceed available funding, the department shall pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

EFFECTIVE DATE: This emergency rule shall take effect on the date it is published in the official state newspaper, and shall remain in effect for 150 days after publication.

Fiscal Estimate

The department does not anticipate this emergency rule to have a significant fiscal effect. It is estimated that 2,400 herds will be classified over a 12 month period of which approximately 80% of the herd owners will file a reimbursement claim. Each claim is expected to require 20 minutes to review and complete data entry for payment. The total cost will be approximately \$13,200 (\$12,600 for salary and fringe and \$600 for postage). This time can be accommodated with existing staff and through reprioritization of work assignments in the office. There is no anticipated fiscal effect for local units of government.

Regulatory Flexibility Analysis

This rule establishes standards for the grant program created by 1999 Wis. Act 9 to assist cattle owners in paying for Johne's disease testing. It will affect cattle owners who wish to obtain reimbursement for a portion of the costs incurred to test their herds for Johne's disease.

When a herd owner has his herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim no later than February 1 of the year following the calendar year in which the herd was tested. The owner must provide copies of bills from either the veterinarian or the laboratory to establish amount of laboratory costs incurred.

This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after the testing is conducted. This allows significant flexibility for the animal owner.

It is not anticipated that the animal owner will need any significant professional skills to complete the claim form and become eligible for a grant under this rule.

Dated this 8 day of Jan, 2000.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND
CONSUMER PROTECTION



Ben Brancel
Secretary



State of Wisconsin
Tommy G. Thompson, Governor

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

DATE: December 20, 2000

TO: State Legislators

FROM: Ben Brancel
Secretary

Ben Brancel

SUBJECT: **Emergency Rule; Reimbursement of Johne's Testing Costs**

Pursuant to s. 227.24(3), Stats., the Department of Agriculture, Trade and Consumer Protection is forwarding a copy of an emergency rule, to reimburse Johne's testing costs. We are also enclosing a fiscal estimate on the emergency rule.

Background

Under s. 95.197, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classification, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

The biennial budget act (1999 Wis. Act 9) provided \$100,000 in grant funds FY 2000-01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner. DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share

based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

Why an Emergency Rule is Needed

Permanent rules establishing the reimbursement program will not take effect before June 1, 2001. This emergency rule establishes an interim procedure which will allow owners of livestock herds to apply for grants under this program for testing performed in 2000. It also permits the department to process those applications and disburse the grants before the end of the fiscal year.

Fiscal Estimate

The Department estimates that 2400 herds will be classified over a 12 month period and that 80% of the herd owners will file a reimbursement claim. If each claim requires 20 minutes to review and enter data for payment, the cost for salary and fringe will be \$12,600. We estimate postage will cost \$600 per year. The department will absorb these costs in the existing budget by reprioritizing staff assignments and expenses.

This estimate covers costs for the first year of the program only. Herd participation is expected to increase approximately 20 to 50% each year. This will also increase costs incurred by the department at a similar rate. At some point in time, the department may not be able to absorb the costs.

Small Business Analysis

This rule will help cattle owners by reimbursing Johne's disease testing costs. The department has minimized procedural requirements related to reimbursement application, so that it will be easy for herd owners to apply. The department has included only those requirements that are necessary to ensure financial accountability in the distribution of public funds. This rule gives herd owners a substantial amount of time to apply for reimbursement. Herd owners must simply document the laboratory costs for which they seek reimbursement. DATCP will give herd owners information on how to apply.

Initial Regulatory Flexibility Analysis

This rule establishes standards for the grant program created by 1999 Wis. Act 9 to assist cattle owners in paying for Johne's disease testing. It will affect cattle owners who wish to obtain reimbursement for a portion of the costs incurred to test their herds for Johne's disease.

When a herd owner has his herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim no later than February 1 of the year following the calendar year in which the herd was

tested. The owner must provide copies of bills from either the veterinarian or the laboratory to establish amount of laboratory costs incurred.

This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after the testing is conducted. This allows significant flexibility for the animal owner.

It is not anticipated that the animal owner will need any significant professional skills to complete the claim form and become eligible for a grant under this rule.

DATCP Docket
Number 00-R-15

**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 10.21(10)(c) and (15) relating to
- 3 reimbursement of Johne's disease testing costs.

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

Statutory Authority: ss. 93.07(1), and 95.197(2), Wis. Stats.
Statute Interpreted: s. 95.197, Wis. Stats.

Johne's disease (paratuberculosis) is a serious disease of cattle. The 1999-2001 biennial budget act (1999 Wis. Act 9) established a grant program to help cattle owners pay for Johne's disease testing. The department of agriculture, trade and consumer protection (DATCP) administers the grant program. This rule establishes standards for the grant program, as required by the biennial budget act.

Background

Under s. 95.195, Stats., and current DATCP rules, a seller warrants that cattle are free of Johne's disease at the time of sale unless the seller discloses to the prospective buyer the current Johne's disease herd classification of the source herd. Every herd of cattle has a Johne's disease herd classification.

A herd is automatically classified "maximum risk for Johne's disease" unless DATCP assigns a different herd classification based on an annual herd test. DATCP may assign one of several herd classifications, based on annual herd test results. An annual herd test is voluntary. A herd owner may arrange and pay for an annual herd test, and may ask the department to classify the herd based on the test results.

Grant Program

The biennial budget act (1999 Wis. Act 9) provided \$100,000 in grant funds FY 2000-01 to help cattle owners pay for annual Johne's disease herd tests. Under this rule, a herd owner who asks the department to classify a herd based on an annual herd test may apply for reimbursement of laboratory costs associated with the annual test. When DATCP classifies the herd, it will tell the herd owner how to apply for reimbursement.

To obtain reimbursement, a herd owner must file a claim by February 1 of the year following the year in which the herd owner tests the herd. The herd owner must submit copies of bills that establish the amount of laboratory costs charged to the herd owner. DATCP will distribute available funds by June 30 (following the February 1 annual application deadline).

DATCP may reimburse all or part of an applicant's allowed claim, depending on available funding. If allowed claims exceed available funding, DATCP will pay each herd owner a pro rata share based on the amount of each herd owner's allowed claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent year.

FINDING OF EMERGENCY

The state of Wisconsin department of agriculture, trade and consumer protection ("department") finds that an emergency exists and that the following emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

1. 1999 Wisconsin Act 9 was published on October 28, 1999. It appropriates \$100,000 for financial assistance to owners of livestock herds for conducting testing for Johne's disease (paratuberculosis) for FY 2000-01. It requires the department to provide the financial assistance.
2. 1999 Wisconsin Act 9 requires the department to promulgate rules for implementing the financial assistance program.
3. Permanent rules establishing the program will not take effect before June 1, 2001. This emergency rule establishes an interim procedure which will allow owners of livestock herds to apply for grants under this program. Without this rule, no person would be able to apply for a grant in FY 2000-01 until at least June 1, 2001, and the department would have insufficient time to review and process the grant requests before the end of the fiscal year.

1 **SECTION 1.** ATCP 10.21(10)(c) is created to read:

2 ATCP 10.21(10)(c) *Eligibility for reimbursement.* Notice that the herd owner
3 may apply for reimbursement of testing costs, according to sub. (15).

4 **SECTION 2.** ATCP 10.21(15) is created to read:

5 ATCP 10.21(15) REIMBURSEMENT OF ANNUAL HERD TEST COSTS. (a) *Eligibility.*

6 A herd owner who asks the department to classify a herd under sub. (3) based on an
7 annual herd test performed under sub. (5) may apply for reimbursement of laboratory
8 testing costs under sub. (7).

9 (b) *Reimbursement claim.* To apply for reimbursement of annual herd test costs
10 under par. (a), a herd owner shall file a claim with the department by February 1 of the
11 year following the year in which the herd is tested and classified. The herd owner shall
12 apply on a form provided by the department. The herd owner shall submit copies of bills
13 from the veterinarian or laboratory that establish the amount of laboratory test costs that
14 the herd owner incurred.

15 (c) *Claims disallowed.* The department may disallow all or part of a claim under
16 par. (b) if the department finds that the herd owner has misrepresented or falsified any
17 part of a claim.

18 (d) *Reimbursement payments.* The department shall reimburse a herd owner's
19 allowed claim by June 30 of the year following the year which the owner's herd was
20 tested and classified. If allowed claims exceed available funding, the department shall
21 pay each herd owner a pro rata share based on the amount of each herd owner's allowed
22 claim. A herd owner may not resubmit the unpaid portion of a claim in a subsequent
23 year.

1 **EFFECTIVE DATE:** This emergency rule shall take effect on the date it is
2 published in the official state newspaper, and shall remain in effect for 150 days after
3 publication.

Dated this 21 day of Dec, 2000.

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


Ben Brancel
Secretary

Final Regulatory Flexibility Analysis

This rule establishes standards for the grant program created by 1999 Wis. Act 9 to assist cattle owners in paying for Johne's disease testing. It will affect cattle owners who wish to obtain reimbursement for a portion of the costs incurred to test their herds for Johne's disease.

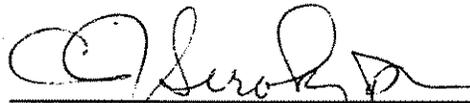
When a herd owner has his herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim no later than February 1 of the year following the calendar year in which the herd was tested. The owner must provide copies of bills from either the veterinarian or the laboratory to establish amount of laboratory costs incurred.

This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after the testing is conducted. This allows significant flexibility for the animal owner.

It is not anticipated that the animal owner will need any significant professional skills to complete the claim form and become eligible for a grant under this rule.

Dated this 18 day of December, 2000.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION



Clarence J. Siroky, DVM
Administrator
Division of Animal Health

FISCAL ESTIMATE WORKSHEET

2001 Session

Detailed Estimate of Annual Fiscal Effect	<input checked="" type="checkbox"/> ORIGINAL	<input type="checkbox"/> UPDATED	LRB No. and Bill Adm. Rule No.	Amendment No.
DOA-2047 (R10/98)	<input type="checkbox"/> CORRECTED	<input type="checkbox"/> SUPPLEMENTAL	ATCP 10.21	

Subject
 DATCP Emergency Rule relating to reimbursement of Johne's Disease test costs

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$12,600	
(FTE Position Changes) FTE	0.30 FTE	
State Operations - Other Costs	\$600	
Local Assistance		
Aids to Individuals and Organizations		
TOTAL State Costs by Category	\$13,200	
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR		
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	<u>\$13,200</u>	
NET CHANGE IN REVENUES		

Dept. of Agriculture, Trade & Consumer Protection	Authorized Signature/Telephone No.	Date
DATCP Clarence Siroky (608) 224-4872	<i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Dec. 15, 2000

FISCAL ESTIMATE

DOA-2048 N(R10/98)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

2001 Session

LRB No. and Bill/Adm. Rule No.

ATCP 10.21

Amendment No. if Applicable

Subject

DATCP Emergency Rule relating to reimbursement of Johne's Disease test costs

Fiscal Effect

State: No State Fiscal Effect

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

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

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

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 Units Affected:
- Towns Villages Cities
- Counties Others
- School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20,115 (2) (a) and (2) (c)

Assumptions Used in Arriving at Fiscal Estimate

The emergency rule established requirement to claim partial reimbursement of testing costs related to herd classification testing for Johne's Disease. Herd owners must file a claim for reimbursement with the department by February 1 of the year following the year in which the herd was classified. The herd owner must submit copies of bills for the laboratory costs charged to the owner. DATCP will reimburse all or part of the claim depending on available funding (\$100,000 at this time) and number of claims.

It is estimated that 2,400 herds will be classified over a 12 month period of which approximately 80% of the herd owners will file a reimbursement claim. Each claim is expected to require 20 minutes to review and complete data entry for payment. The total cost will be approximately \$13,200 (\$12,600 for salary and fringe and \$600 for postage). This time can be accommodated with existing staff and through reprioritization of work assignments in the office.

Long-Range Fiscal Implications

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

Dept of Agriculture, Trade & Consumer Protection

Clarence Siroky

DATCP Clarence Siroky (608) 224-4872

Authorized Signature/Telephone No.

Barbara Knapp

Barbara Knapp (608) 224-4746

Date

Dec. 15, 2000