

CR 90-234

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

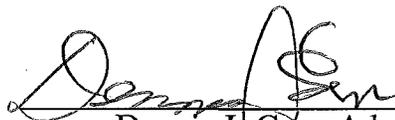
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Dennis J. Carr, Administrator, Animal Health Division, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to bovine paratuberculosis testing and disclosure requirements, mastitis control and adulterated milk, Chapter Ag 10.01(54), Ag 10.20, Ag 10.21, Ag 10.215, Ag 10.216, Ag 60.15(4), and Ag 60.15(8), Wis. Adm. Code, was duly approved and adopted by the Department on May 17, 1991.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such 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 17th day of May, 1991.





Dennis J. Carr, Administrator
Animal Health Division



ORDER
OF THE STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

1 The state of Wisconsin department of agriculture, trade and
2 consumer protection adopts a final order to repeal Ag 60.13(4);
3 to amend Ag 10.01(54) and Ag 60.15(4); to repeal and recreate Ag
4 10.20 and Ag 10.21; and to create Ag 10.215 and Ag 10.216,
5 relating to bovine paratuberculosis testing and disclosure
6 requirements, mastitis control and adulterated milk.

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

Statutory authority:

ss. 93.07(1) and 95.195(2), Stats. (paratuberculosis); and
ss. 93.07(1), 97.09(4), 97.20(4), 97.22(8), 97.24(3) and
97.52(2), Stats. (mastitis control and adulterated milk)

Statutes interpreted:

s. 95.195, Wis. Stats. (paratuberculosis); and
ss. 93.07(10), 95.23, 97.02, 97.12, 97.20, 97.22, 97.24,
97.50 and 97.52, Stats. (mastitis control and adulterated
milk)

Paratuberculosis (Johne's disease)

Paratuberculosis, commonly known as Johne's disease, is a serious disease of bovine animals. Because Johne's disease is slow to develop, it may not be apparent to a cattle buyer or seller at the time of sale. However, it can have a serious financial impact on cattle buyers. Among other things, the sale of Johne's-infected cattle can spread the disease to previously uninfected herds.

Under s. 95.195(1), Wis. Stats. (created by 1989 Wis. Act 277), in every contract for the sale of a bovine animal, there is an implied warranty that the animal is not infected with Johne's disease. The implied warranty applies to every sale of a bovine animal after June 1, 1991. If a buyer proves that an animal was infected with Johne's disease at the time of sale, the buyer can recover damages from the seller under the implied warranty.

1 (2) ORDER PROHIBITING SALE OF MILK. If a department
2 veterinarian or other accredited veterinarian finds clinical
3 evidence of mastitis in one or more cows, the department may
4 issue an order prohibiting the sale of milk from those cows. A
5 person adversely affected by the order is entitled to a hearing
6 before the department upon request.

7 Ag 10.21 JOHNE'S DISEASE TESTING. (1) HERD OWNER RELIEVED
8 FROM IMPLIED WARRANTY IN SALE OF CATTLE. (a) Except as provided
9 in par. (b), the implied warranty under s. 95.195(1), Stats.,
10 does not apply to the sale of a bovine animal from a herd which
11 is classified by the department under s. Ag 10.215, provided that
12 the herd owner discloses the information required under s. Ag
13 10.216 to the buyer prior to sale. To obtain an annual herd
14 classification under s. Ag 10.215, the herd owner shall comply
15 with the annual herd testing requirements under this section.

16 NOTE: Paratuberculosis (Johne's disease) is a chronic
17 subclinical disease of bovine animals. Under s.
18 95.195(1), Stats., in each contract for the sale of an
19 animal, there is an implied warranty that the animal is
20 not infected with paratuberculosis (Johne's disease)
21 unless the seller does one of the following:

- 22 (a) Notifies the buyer in writing before the sale
23 that the animal is not warranted as being
24 uninfected with paratuberculosis; or
25 (b) Complies with the testing and disclosure
26 requirements under this section and
27 s. Ag 10.216.

28 Under current technology, a single test is not
29 adequate to determine that an individual bovine animal
30 is free of paratuberculosis. Tests which are not part
31 of a herd test, or tests which are conducted on groups
32 of animals assembled for a short time prior to sale,
33 are of little or no value in determining the risk of
34 paratuberculosis infection. Test results are only
35 meaningful if tested animals are part of a herd and all
36 animals in the herd are tested. The testing
37 alternative under this section is therefore available

1 only to herd owners, and is not available to livestock
2 dealers or other sellers of bovine animals.
3

4 (b) The sale of a bovine animal is subject to the implied
5 warranty under s. 95.195(1), even though the animal is from a
6 classified herd, if the animal was added to that classified herd
7 from another herd less than 6 months before the last annual herd
8 test under this section. This paragraph does not apply if the
9 animal was added to the classified herd from a herd which was
10 classified as a paratuberculosis documented-free herd under s. Ag
11 10.215(1)(a).

12 (2) ANNUAL HERD TEST. To obtain an annual herd
13 classification under s. Ag 10.215, a herd owner shall have the
14 herd tested annually for paratuberculosis. If samples for an
15 annual herd test are not taken within 14 months after the last
16 annual herd test samples were taken, the existing herd
17 classification expires and the herd owner may not claim
18 protection under sub. (1) until the herd is reclassified.

19 (3) ANIMALS TESTED. In an annual herd test, every animal
20 20 months of age or older, including any animal which was added
21 to the herd within the last 6 months, shall be individually
22 tested for paratuberculosis.

23 (4) TEST SAMPLES. Paratuberculosis test samples for an
24 annual herd test shall be taken by a person authorized under sub.
25 (5). Each test sample shall be identified with the official
26 individual identification of the animal from which the sample was
27 taken, together with the date on which the sample was taken.

1 (5) WHO MAY COLLECT TEST SAMPLES. Paratuberculosis test
2 samples for an annual herd test shall be collected by one of the
3 following:

4 (a) An accredited veterinarian.

5 (b) An employe of the department or the federal bureau.

6 (6) TEST METHOD. In an annual herd test, animals shall be
7 tested for paratuberculosis using the fecal culture test, the
8 enzyme-linked immunosorbent assay or ELISA test or another test
9 which is approved by the department.

10 (7) TESTING LABORATORY. In an annual herd test,
11 paratuberculosis test samples shall be analyzed at a department
12 laboratory, a federal bureau laboratory, or a laboratory approved
13 by the department or the federal bureau. Samples shall be
14 forwarded to the testing laboratory by the person under sub. (5)
15 who collects the samples.

16 (8) TEST RESULTS; REVIEW BY DEPARTMENT. The testing
17 laboratory under sub. (7) shall promptly report to the department
18 epidemiologist all individual test results obtained from an
19 annual herd test. Based on the individual test results, the
20 epidemiologist shall determine the overall prevalence of
21 paratuberculosis in the herd, and shall classify the herd by risk
22 category under s. Ag 10.215. The epidemiologist shall determine
23 the prevalence of paratuberculosis in the herd based on the
24 number of animals identified as test positive, the total number
25 of animals tested, and the test accuracy in terms of the
26 sensitivity and specificity of the test used.

1 SECTION 3. Ag 10.215 and 10.216 are created to read:

2 Ag 10.215 PARATUBERCULOSIS HERD CLASSIFICATION. (1) RISK
3 CATEGORIES. Within 30 days after the department epidemiologist
4 receives the test results from an annual herd test under s. Ag
5 10.21(8), the epidemiologist shall classify the herd in one of
6 the following paratuberculosis risk categories:

7 (a) Documented paratuberculosis-free herd. Animals from a
8 documented paratuberculosis-free herd are at negligible or
9 insignificant risk of contracting paratuberculosis. A herd shall
10 be classified in this risk category if either of the following
11 conditions are met:

12 1. In 3 consecutive herd tests, the herd has been tested
13 by the fecal culture test and found completely negative for
14 paratuberculosis. Samples for each herd test shall be taken not
15 less than 10 months nor more than 14 months after samples were
16 taken for the preceding herd test.

17 2. In 2 consecutive herd tests, the herd has been tested by
18 the ELISA test and found completely negative for
19 paratuberculosis. Samples for the second herd test shall be
20 taken not less than 10 months nor more than 14 months after
21 samples were taken for the first herd test.

22 (b) Low prevalence paratuberculosis herd. A herd shall be
23 classified as a low prevalence paratuberculosis herd if the
24 latest annual herd test indicates a paratuberculosis prevalence
25 of less than 5%, but the herd does not qualify as a documented
26 paratuberculosis-free herd under par. (a). Negative test animals

1 from a low prevalence paratuberculosis herd are at negligible or
2 insignificant risk of contracting paratuberculosis. An animal
3 not tested because the animal is less than 20 months of age is at
4 low risk of contracting the disease.

5 (c) Moderate prevalence paratuberculosis herd. A herd
6 shall be classified as a moderate prevalence paratuberculosis
7 herd if the latest annual herd test indicates a paratuberculosis
8 prevalence of at least 5% but not more than 10%. A negative test
9 animal from a moderate prevalence paratuberculosis herd has a 2%
10 to 10% risk of contracting paratuberculosis at a later date. Any
11 animal not tested because the animal is less than 20 months of
12 age is at moderate risk for contracting the disease.

13 (d) High prevalence paratuberculosis herd. A herd shall be
14 classified as a high prevalence paratuberculosis herd if the
15 latest annual herd test indicates a paratuberculosis prevalence
16 greater than 10%. All animals from a high prevalence
17 paratuberculosis herd are at high risk for contracting
18 paratuberculosis.

19 (2) NOTICE TO HERD OWNER. Upon classifying a herd under
20 sub. (1), the department epidemiologist shall promptly provide
21 the herd owner with all of the following information in writing:

22 (a) Individual animal test results. Individual test
23 results for each animal included in the herd test. Test results
24 shall be identified with each animal's official individual
25 identification.

26 (b) Herd prevalence. The prevalence of paratuberculosis in

1 the herd, as determined by the epidemiologist. Upon request by
2 the herd owner, the epidemiologist shall explain the basis on
3 which the herd prevalence was determined.

4 (c) Herd classification. The owner's herd classification,
5 as determined by the epidemiologist under sub. (1). A herd
6 classification takes effect when this classification notice is
7 signed by the department epidemiologist, and immediately
8 supersedes any prior classification. The classification notice
9 shall be accompanied by the following disclaimer:

10 "This herd classification expires 14 months after (date of
11 latest herd test) unless the herd is retested prior to that
12 date. This classification does not apply to animals which
13 were added to the classified herd from another herd less
14 than 6 months before the classified herd was tested."
15

16 (d) Individual animal risk factor. The risk that animals
17 from the herd will contract paratuberculosis in the future, based
18 on the risk category in which the herd is classified under sub.
19 (1). The risk statement shall be accompanied by the following
20 disclaimer:

21 "This risk statement does not apply to animals which were
22 added to the classified herd from another herd less than 6
23 months before the classified herd was tested."
24

25 (e) Invitation to participate in herd management program.
26 An invitation to participate in the department's paratuberculosis
27 herd management program under sub. (3), unless the herd is
28 classified as a documented paratuberculosis-free herd under sub.
29 (1)(a).

30 (f) Right of hearing. Notice that the herd owner is
31 entitled to a prompt informal hearing to contest any disputed

1 findings by the department epidemiologist under this section. If
2 a disputed matter is not resolved after informal hearing, the
3 herd owner is also entitled to a formal hearing under ch. 227,
4 Stats.

5 (3) HERD MANAGEMENT PROGRAM. (a) General. If a herd is
6 classified under sub. (1), the herd owner may enroll the herd in
7 the department's paratuberculosis herd management program unless
8 the herd is classified as a documented paratuberculosis-free herd
9 under sub. (1)(a). The herd management program is a voluntary
10 program designed to reduce or eliminate the prevalence of
11 paratuberculosis in a participating herd. If a herd owner
12 chooses to participate, the herd owner and herd veterinarian will
13 enter into a written herd agreement with the department. The
14 herd agreement will include recommended measures for the control
15 or elimination of paratuberculosis in the herd, and may authorize
16 paratuberculosis vaccination under par. (b).

17 (b) Vaccination for paratuberculosis. No person may
18 vaccinate any animal for paratuberculosis except under a herd
19 agreement with the approval of the department. The department
20 will not authorize vaccination in any herd in which the
21 prevalence of paratuberculosis is less than 15% unless special
22 circumstances warrant vaccination in that herd.

23 Ag 10.216 PARATUBERCULOSIS; SALE DISCLOSURES. To obtain
24 protection under s. Ag 10.21(1)(a), a herd owner selling a bovine
25 animal shall disclose all of the following paratuberculosis
26 information to the buyer prior to sale:

1 (1) INDIVIDUAL ANIMAL TEST RESULTS. For each animal sold,
2 the most recent paratuberculosis test result reported to the
3 seller under s. Ag 10.215(2)(a), if any.

4 (2) HERD PREVALENCE. The prevalence of paratuberculosis in
5 the seller's herd, as last reported to the seller under
6 s. Ag 10.215(2)(b).

7 (3) HERD CLASSIFICATION. The risk classification of the
8 seller's herd, as last reported to the seller under
9 s. Ag 10.215(2)(c).

10 (4) INDIVIDUAL ANIMAL RISK FACTOR. For each animal sold,
11 the pertinent risk factor last reported to the seller under
12 s. Ag 10.215(2)(d).

13 SECTION 4. Ag 60.13(4) is repealed.

14 SECTION 5. Ag 60.15(4) is amended to read:

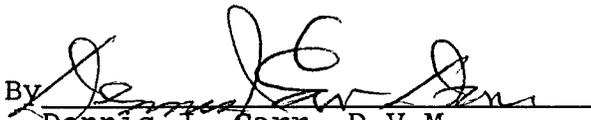
15 Ag 60.15(4) SOMATIC CELL COUNT. The somatic cell count of
16 cows milk, as determined by a direct microscopic somatic cell
17 count, DMSCC, or an electronic somatic cell count, ESCC, under
18 this subchapter, shall not exceed 750,000 cells per ml. The
19 somatic cell count of goat milk, as determined by the Pyronin Y
20 Methyl green stain test, shall not exceed 1,000,000 cells per ml.
21 Except as provided under s. Ag ~~60.13(4)~~ or 60.20(4), a dairy
22 plant is not required to reject milk shipments in response to a
23 violation of this subsection unless the department suspends or
24 revokes the milk producer's license or grade A permit, or issues
25 ~~a holding order or disposal order~~ an order affecting the milk
26 shipments under s. Ag 10.20(2) or Ag 60.30.

1 SECTION 6. EFFECTIVE DATES. The amendment of s. Ag
2 10.01(54), the repeal and recreation of s. Ag 10.21, and the
3 creation of ss. Ag 20.215 and Ag 10.216 by this order shall take
4 effect on June 1, 1991. The remainder of this order shall take
5 effect on the first day of the month following publication in the
6 Wisconsin administrative register, as provided in s.
7 227.22(2)(intro.), Stats.

8

Dated this 17 day of May 1991.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Dennis J. Carr, D.V.M.,
Administrator
Animal Health Division

KWM/Ag10 amd/D7
5.17.91