

Clearinghouse Rule 00-146

STATE OF WISCONSIN	)	
	) ss.	Clearinghouse Rule
DEPARTMENT OF AGRICULTURE,	)	No. 00-146
TRADE AND CONSUMER PROTECTION	)	Docket No. 99-R-11
CERTIFICATION:	)	

I, James E. Harsdorf, Secretary, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order of the Wisconsin Administrative Code ATCP 10 related to reimbursement of Johne's Disease Testing Costs was signed and adopted by the department on April 12, 2001.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 12th day of April, 2001.



STATE OF WISCONSIN  
 DEPARTMENT OF AGRICULTURE,  
 TRADE AND CONSUMER PROTECTION

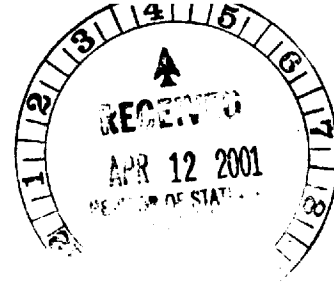
*James E. Harsdorf*  
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 James E. Harsdorf  
 Secretary





State of Wisconsin  
Scott McCallum, Governor

**Department of Agriculture, Trade and Consumer Protection**  
James E. Harsdorf, Secretary



**DATE:** April 12, 2001

**TO:** Gary Poulson – Reviser of Statutes Office  
131 West Wilson, Suite 800

**FROM:** James E. Harsdorf *JEH*  
Secretary

**SUBJECT: Clearinghouse Rule No. 00-146, Ch. ATCP 10 Relating to Reimbursement of Johne's Disease Testing Costs.**

The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing with the above rule.

**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.

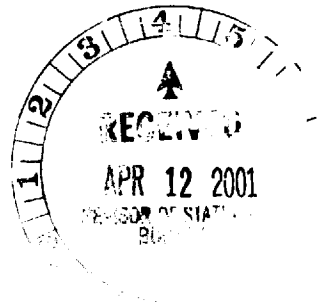
This claim filing process is the least onerous possible that is consistent with the state's need to audit and assure that grants are only given in appropriate amounts to eligible owners. The rule permits filing the claim anytime between the date their herd is classified and February 1 of the year after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

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**Comments from Legislative Committees**

On February 7, 2001, this department transmitted the above rule for legislative committee review. On February 8, 2001, the rule was assigned to the Senate "Committee on Labor and Agriculture." The Committee's review period expired on March 8, 2001, without the Committee holding hearings or objecting to the rule.

On February 12, 2001, the rule was assigned to the Assembly "Committee on Agriculture." The Committee's review period expired on March 14, 2001, without the Committee holding hearings or objecting to the rule.



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

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**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.
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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 13 day of April, 2001.

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

  
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James E. Harsdorf  
Secretary