

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



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

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

CLEARINGHOUSE REPORT TO AGENCY

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

CLEARINGHOUSE RULE 00-146

AN ORDER to create ATCP 10.21 (10) (c) and (15), relating to reimbursement of Johne's disease testing costs.

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

10-20-00 RECEIVED BY LEGISLATIVE COUNCIL.

11-15-00 REPORT SENT TO AGENCY.

RNS:JES:rv;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

Comment Attached YES NO

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

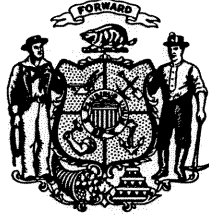
Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



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

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

CLEARINGHOUSE RULE 00-146

Comments

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

2. Form, Style and Placement in Administrative Code

If the form referenced in s. ATCP 10.21 (15) (b) is a new or revised form, then the department should include a reference to the form in a note and attach to the rule a copy of the form or a description of how a copy may be obtained. [See s. 227.14 (3), Stats.]

4. Adequacy of References to Related Statutes, Rules and Forms

The reference to s. 95.197, Stats., in the first paragraph of the background section in the analysis accompanying the rule should be to s. 95.195, Stats.

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

The department should review the reference to the "bills from the veterinarian or laboratory" in the last sentence in s. ATCP 10.21 (15) (b) to ensure that the reference is unambiguous and includes all of the entities authorized to perform laboratory testing identified in s. ATCP 10.21 (7) (intro.) whose bills are eligible for reimbursement under the grant program established by the rule.

**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 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. 95.197, 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 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 Johnne'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.

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). ~~ATCP~~

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.

New Form?
S. J. J.

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

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

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

Dated this _____ day of _____, 2001.

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

Ben Brancel
Secretary

Initial Regulatory Flexibility Analysis

This rule 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.

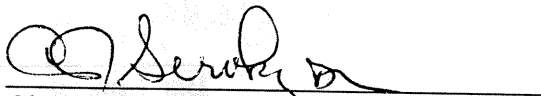
When a herd owner has his herd tested for Johne's disease and requests that the herd be classified on the basis of that test, the department will advise the herd owner that he or she is eligible to participate in the grant program. To participate in the grant program, the herd owner must file a claim 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 the 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 23 day of August, 2000.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION



Clarence J. Siroky, DVM
Administrator
Division of Animal Health

FISCAL ESTIMATE

DOA-2048 N(R 10/98)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No. / 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 costs

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient 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 Unit Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Source Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations s. 20.115(2)(a)

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule establishes 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.

Agency prepared by: (Name & Phone No.)

Clarence Siroky
 DATCP Clarence Siroky 608-224-4872

Authorized Signature/Telephone No.

Barbara Knapp
 Barbara Knapp (608) 224-4746

Date

8/16/00

FISCAL ESTIMATE WORKSHEET

2000 SESSION

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

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No/Adm.Rule No. Amendment No.
ATCP 10.21

Subject

Proposed creation of ATCP 10.21(10)(c)(15)

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

II. Annualized Cost:

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)	(.30 FTE)	(- FTE)
State Operations - Other Costs	600	-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$ 13,200	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 13,200	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
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	\$ _____	\$ _____

Agency Prepared by: (Name & Phone No.) DATCP Clarence Siroky 608-224-4872	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 8/16/00
--	--	-----------------

OCT 20 2000

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

Memorandum

DATE: October 19, 2000

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

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

SUBJECT: NOTICE OF HEARING – to create Wis. Admin. Code ATCP 10.21(10)(c) and (15); relating to reimbursement of Johne's disease testing costs.

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

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

Thank you.

rc

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

RULE RELATED TO JOHNE'S DISEASE TESTING GRANTS

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule relating to reimbursement of Johne's Disease testing costs. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until December 8, 2000, for additional written comments.

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

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

Two hearings are scheduled:

Tuesday, November 28, 2000, 2:00 pm until 4:00 pm
Wisconsin Department of Agriculture, Trade and Consumer Protection
Board Room
2811 Agriculture Drive
Madison, WI 53704
Handicapped accessible

Thursday, November 30, 2000, 2:00 pm until 4:00 pm
Wisconsin Department of Agriculture, Trade and Consumer Protection
Conference Room
3610 Oakwood Hills Parkway
Eau Claire, WI 54701-7754
Handicapped accessible

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

Statutory Authority: ss.93.07(1), 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. 95.197, 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.

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 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.

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.

Dated this 19 day of Oct, 2000

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

By Ben Brancel
Ben Brancel
Secretary