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

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

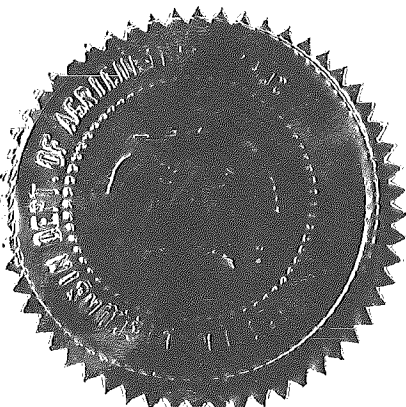
I, Donald J. Soberg, Administrator of the Trade and Consumer Protection Division of the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of the Division, do hereby certify that the annexed photocopy of the Order amending Chapter Ag 8, Wis. Adm. Code, relating to the determination of interest rates applicable to producer claims under the dairy plant security law, is a true and accurate copy of the original document on file in the Department, which was was duly approved and adopted by the Department on November 21, 1989.

In testimony whereof, I have set my hand and affixed the official seal of the Department of Agriculture, Trade and Consumer Protection, at the Department's offices in the city of Madison, this 21<sup>st</sup> day of November, 1989.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION



Donald J. Soberg, Administrator  
Trade and Consumer Protection  
Division



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

The Wisconsin Department of Agriculture, Trade and Consumer Protection promulgates the following order to create section Ag 8.08, relating to the determination of interest rates applicable to producer claims under the dairy plant security law.

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

Statutory Authority: s. 100.06(4), Stats.

Statutes Interpreted: s. 100.06(4), Stats.

This rule implements 1987 Wisconsin Act 273, which directs the department of agriculture, trade and consumer protection to establish the interest rate to be applied to claims made under the dairy plant security law, s. 100.06(4), Stats. Pursuant to the dairy plant security law, producers who are not paid by a dairy plant for dairy products sold to the dairy plant may file a claim with the department. The department reviews and audits all such claims and determines which claims are to be paid. Payment of claims is made from any of the various forms of security that the department may require of a dairy plant, including a commercial or personal surety bond, cash or negotiable securities, or security interests in a dairy plant's inventory and accounts receivable. Under 1987 Wisconsin Act 273, producers not paid for their dairy products by dairy plants are entitled to interest in addition to the claims allowed by the department under the dairy plant security law, unless a claimant waives his or her right to payment of interest.

The rule provides that the department shall award the same interest rate as that awarded by the courts of this state for interest on jury verdicts. The interest rate for jury verdicts is established in s. 814.04(4), Stats., and is currently 12% per year. To minimize confusion, the rule also incorporates a provision of 1987 Wisconsin Act 273, which requires the department to apply a different interest rate if a producer and a dairy plant have previously agreed in writing to payment of a specified interest rate.

The rule provides that a producer may waive his or her right to payment of interest only if the waiver is in writing, is signed and dated by the producer, contains a written

acknowledgement that the producer is aware of his or her right to payment of interest, and is submitted to the department by the producer or the dairy plant when the producer submits his or her claim or at any time after a claim is submitted. These requirements are intended to ensure that producers do not inadvertently waive their rights to payment of interest.

The rule requires the department to compute the amount of interest beginning from the first day of nonpayment by a dairy plant until the producer's claim is paid. Interest may be paid at the same time a producer's claim is paid, or within a reasonable period of time after a producer's claim is paid. This is to ensure that the payment of claims is not delayed pending the computation of interest.

The rule does not increase the dairy security requirement established in s. Ag 8.06(2)(a), which is currently 75% of maximum due and accrued producer liability.

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SECTION 1. Section Ag 8.08 is created to read:

Ag 8.08 INTEREST RATE; PRODUCER CLAIMS. (1) DETERMINATION OF INTEREST RATE. The department shall determine the interest rate to be paid to producers injured by a dairy plant default as the rate awarded by Wisconsin courts for interest on verdicts, established in s. 814.04(4), Stats., unless the interest rate is determined in accordance with sub. (2).

(2) AGREEMENT ON INTEREST RATE. The department shall apply the interest rate previously agreed upon by a producer and a dairy plant if a producer or a dairy plant provides proof that either:

(a) A producer and a dairy plant have executed a written contract specifying the interest rate, or

(b) A producer has delivered a written confirmation of purchase to a dairy plant specifying the interest rate and the dairy plant failed to make a written objection within 10 days of receipt of the written confirmation of purchase.

(3) WAIVER OF INTEREST. A producer may waive payment of interest only if all of the following requirements are satisfied:

- (a) The waiver is in writing,
- (b) The waiver contains a written acknowledgement that the producer is aware of his or her right to payment of interest under s. 100.06(4), Stats.,
- (c) The waiver is signed and dated by the producer,
- (d) The waiver is submitted to the department by the producer or the dairy plant at, or any time after, the time the producer submits his or her claim.

(4) COMPUTATION AND PAYMENT OF INTEREST.

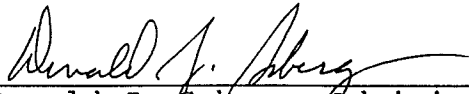
The department shall compute the amount of interest due a producer by applying the interest rate determined under either sub. (1) or sub. (2), commencing from the first day of a breach in payment by a dairy plant until full payment of a producer's allowed claim is made. If an allowed claim is not paid in full within the time period specified in the department's final order allowing producer claims, interest shall continue to accrue on the balance of the unpaid claim. Interest payments may be made concurrently with payment of an allowed claim, or within a reasonable period of time subsequent to payment of an allowed claim.

SECTION 2. EFFECTIVE DATE.

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

Dated this 21st day of November, 1989.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By   
Donald J. Soberg, Administrator  
TRADE & CONSUMER PROTECTION DIVISION

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