

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

IN THE MATTER OF A WAIVER OF ANIMAL HEALTH RULES)	AH Docket No. 17-B-002
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Section 10.20 (1) (b) and (2) (b), Wis. Admin. Code)	ORDER GRANTING A WAIVER FROM THE REQUIREMENT THAT A JOHNE'S DISEASE CERTIFIED VETERINARIAN AND A JOHNE'S DISEASE VACCINATION CERTIFIED VETERINARIAN COMPLETE DEPARTMENT APPROVED TRAINING EVERY FIVE YEARS TO RENEW THE CERTIFICATION.
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INTRODUCTION

Under s. ATCP 10.93, Wis. Admin. Code, the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (department) may waive provisions of ch. ATCP 10, Wis. Admin. Code (Animal Health Program) if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department hereby makes the following findings and conclusions and issues the following order waiving the requirement under s. ATCP 10.20 (1) (b) and (2) (b), Wis. Admin. Code, that requires a Johne's disease certified veterinarian and a Johne's disease vaccination certified veterinarian to receive department approved training every five years to renew his or her certification.

FINDINGS OF FACT

(1) The department is responsible for administering Wisconsin's animal health program under ch. 95, Wis. Stats. The program is designed to protect the health of animals in this state, and to prevent, control, and eradicate communicable diseases among animals. The department has broad authority to adopt rules interpreting statutes under its jurisdiction (see s. 93.07 (1), Wis. Stats.).

(2) Under s. ATCP 10.93, Wis. Admin. Code, the department may waive any provision of ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law. The state veterinarian must issue the waiver in writing.

(3) Section ATCP 10.20 (1) (a), Wis. Admin. Code, allows the department to certify a veterinarian as a Johne's disease certified veterinarian, if the veterinarian:

- a. Is currently a Wisconsin certified veterinarian under s. ATCP 10.05 (1), Wis. Admin. Code, and

b. Successfully completes a training program approved by the department.

(4) Section ATCP 10.20 (1) (b), Wis. Admin. Code, specifies that the Johne's disease certification issued under par. (3) expires five years after it is granted unless the veterinarian completes a renewal training program provided or approved by the department.

(5) Section ATCP 10.20 (2), Wis. Admin. Code, allows the department to certify a veterinarian as a Johne's disease vaccination certified veterinarian, if the veterinarian:

- a. Is currently certified as a Johne's disease certified veterinarian under par. (3).
- b. Successfully completes a Johne's disease vaccination training program provided or approved by the department.

(6) Section 10.20 (2) (b), Wis. Admin. Code, specifies that the Johne's disease vaccination certification issued under par. (5) expires five years after it is granted, or upon expiration of the veterinarian's certification under par. (3), whichever occurs first, unless the veterinarian completes a renewal vaccination training program provided or approved by the department.

(7) The recertification program for the certifications under pars. (3) and (5) is an online program provided through the University of Wisconsin and was last updated in 2012. Several of the modules are no longer functioning and veterinarians are not able to access or complete them.

(8) Many veterinarians will soon need to renew their certifications under par. (3) and (5), and have completed the 2012 recertification module and the functioning modules provided by the university.

(9) The department will still require training for initial Johne's certification, but not for renewal.

(10) A waiver for a Johne's disease certified veterinarian and a Johne's disease vaccination certified veterinarian from having to complete department approved training every five years to renew his or her certification is reasonable and necessary, is consistent with the objectives of ch. ATCP 10, Wis. Admin. Code, for animal disease control, and would not conflict with state statutes.

(11) The Division of Animal Health could properly grant a waiver of s. ATCP 10.20 (1) (b) and (2) (b), Wis. Admin. Code, as long as:

- a. A Johne's disease certified veterinarian meets the requirements under s. ATCP 10.20 (1) (a), Wis. Admin. Code.
- b. A Johne's disease vaccination certified veterinarian meets the requirements under s. ATCP 10.20 (2) (a), Wis. Admin. Code.

CONCLUSIONS OF LAW

(1) This waiver does not affect any other provisions of ch. ATCP 10, Wis. Admin. Code.

(2) This waiver does not conflict with any requirements under ch. 95, Wis. Stats.

(3) Pursuant to s. ATCP 10.93, Wis. Admin. Code, the department may grant a written waiver from a requirement under ch. ATCP 10, Wis. Admin. Code, if the department finds that the waiver is reasonable and necessary, is consistent with objectives of ch. ATCP 10, Wis. Admin. Code, and will not conflict with state law.

(4) The department has made the findings required under s. ATCP 10.93, Wis. Admin. Code.

(5) Pursuant to s. ATCP 10.93, Wis. Admin. Code, and Findings of Fact (1) through (11), the department should waive s. ATCP 10.20 (1) (b) and (2) (b), Wis. Admin. Code, that requires a Johne's disease certified veterinarian and a Johne's disease vaccination certified veterinarian to receive department approved training every five years to renew his or her certification.

ORDER

NOW, THEREFORE, it is ordered pursuant to s. ATCP 10.93, Wis. Admin. Code, that:

(1) The department grants a waiver from s. ATCP 10.20 (1) (b) and (2) (b), Wis. Admin. Code, that requires a Johne's disease certified veterinarian and a Johne's disease vaccination certified veterinarian to receive department approved training every five years to renew his or her certification as long as:

- a. A Johne's disease certified veterinarian meets the requirements under s. ATCP 10.20 (1) (a), Wis. Admin. Code.
- b. A Johne's disease vaccination certified veterinarian meets the requirements under s. ATCP 10.20 (2) (a), Wis. Admin. Code.

(2) This waiver will remain in effect until formally rescinded by order of the State Veterinarian.

Dated this 2nd day of October, 2017.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: _____

State Veterinarian
Paul J. McGraw, DVM