

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

**IN THE MATTER REGARDING THE
PROTECTION OF CATTLE AND
POULTRY HEALTH:
DAIRY CATTLE OWNERS.**

AH Docket No. 24-O-003 A1

**SUMMARY SPECIAL ORDER REQUIRING
INFLUENZA A TESTING OF LACTATING
DAIRY CATTLE PRIOR TO MOVEMENT
TO FAIRS OR EXHIBITIONS IN
WISCONSIN.**

INTRODUCTION

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (Department), by the State Veterinarian, based upon its efforts to protect Wisconsin's cattle and poultry industries from the spread of highly pathogenic avian influenza (HPAI/H5N1) virus, makes the following findings of fact and conclusions of law and issues the following Summary Special Order to dairy cattle owners, requiring testing of lactating dairy cattle prior to movement to fairs or exhibitions in Wisconsin.

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) To protect the health of animals located in this state and of humans residing in this state, the Department may establish, maintain, enforce, and regulate quarantines and other measures relating to the importation, movement, and care of animals and their products, the disinfection of suspected localities and articles, and the disposition of animals, as the Department determines are necessary (see s. 93.07(10), Wis. Stats.).

(3) The Department may prohibit or regulate the importing of animals into this state or the movement of animals within the state if the Department has reasonable grounds to believe that regulation or prohibition is necessary to prevent the introduction or spread of a disease in this state that threatens the health of animals or of humans (see s. 95.20, Wis. Stats.).

(4) Highly pathogenic avian influenza (HPAI/H5N1) is a contagious viral disease of domestic poultry and wild birds. H5N1 is an Influenza A virus. H5N1 is deadly to domestic poultry and can wipe out entire flocks within a matter of days. H5N1 is a threat to the poultry industry, animal health, trade, and the economy. H5N1 can also infect cattle. While H5N1 causes less severe illness in cattle than in poultry, the disease remains of concern for all livestock and also for humans who come into contact with infected animals.

(5) Since late March 2024, the U.S. Department of Agriculture (USDA), Food and Drug Administration, Centers for Disease Control and Prevention, and state veterinary and public health officials

have been investigating detections of H5N1 in dairy cattle. As of June 11, 2024, the USDA National Veterinary Services Laboratories (NVSL) has confirmed the presence of H5N1 in 89 dairy herds in 12 states. USDA has identified spread of H5N1 between cattle within the same herd, spread from cattle to poultry, and spread between dairies associated with cattle movements. Cattle without clinical signs have also tested positive for H5N1.

(6) USDA issued a federal order effective April 29, 2024, requiring H5N1 testing for interstate movement of dairy cattle (<https://www.aphis.usda.gov/sites/default/files/dairy-federal-order.pdf>). The federal order applies immediately to lactating dairy cattle, with other classes of dairy cattle to be evaluated based on scientific factors concerning the virus and its evolving risk profile. The federal order also requires reporting of positive H5N1 tests to USDA Animal and Plant Health Inspection Service (APHIS). USDA guidance regarding the federal order defines lactating dairy cattle as a cow that is producing milk, regardless of the volume of milk that she is producing. This does not include dairy calves, pregnant heifers, or dairy cows that are ‘dry’ or no longer producing milk (<https://www.aphis.usda.gov/sites/default/files/federal-order-faq.pdf>).

(7) Section ATCP 10.01(41), Wis. Admin. Code, defines a fair as a state, county, or district fair.

(8) Section ATCP 10.01(37), Wis. Admin. Code, defines exhibition as an organized fair, swap meet, rodeo, trail ride, show, or other organized event at which animals owned by different persons are brought together from different premises and exhibited on the same premises. Exhibition does not include an animal market, an exhibition operated by an institution accredited by the associations or zoos and aquariums, or a wild animal exhibition operated pursuant to a permit from the Wisconsin department of natural resources.

(9) Fairs and exhibitions provide an opportunity for learning and to showcase the hard work invested in agricultural animals. Unfortunately, these exhibitions also provide an opportunity for illness to spread among animals from multiple herds. Appropriate measures should be taken to minimize the potential spread of H5N1.

(10) As of June 11, 2024, USDA APHIS reimburses for pre-movement Influenza A testing of cattle at National Animal Health Laboratory Network (NAHLN) laboratories; therefore, the cost of the test at NAHLN laboratories will not be passed on to the producer. USDA APHIS also has funding available for producers to apply for reimbursement to cover the cost of shipping and veterinary fees.

(11) On June 11, 2024, the Department issued a Summary Special Order (24-O-003) requiring Influenza A testing of lactating dairy cattle prior to movement to fairs or exhibitions in Wisconsin.

(12) The language of the order (24-O-003) required a negative test for Influenza A virus at an approved National Animal Health Laboratory Network (NAHLN) laboratory, and for the sample to be collected by or under the supervision of a licensed and accredited veterinarian. NAHLN laboratories are located in the U.S., and accredited veterinarian is a designation specific to the U.S.

(13) As of July 26, 2024, H5N1 has not been reported in ruminants outside of the U.S.

(14) Farmers and producers are preparing to import cows from other countries to Wisconsin for the World Dairy Expo from September 28 to October 4, 2024. It would be unnecessarily burdensome to require that the sample be collected by a U.S. accredited veterinarian and that the samples be sent to a U.S. NAHLN laboratory, and allowing the equivalent in the country of origin would not present an increased disease risk.

(15) Section ATCP 10.21(1)(a)2., Wis. Admin. Code, requires that a veterinarian who tests a bovine animal for any disease listed under s. ATCP 10.03 shall insert, in the ear of the animal, an official ear tag unless the animal is already identified with an official ear tag and shall record, on the applicable document, the number of the official individual identification. Section ATCP 10.03 lists ch. ATCP 10 Appendix A, which lists Avian influenza.

CONCLUSIONS OF LAW

(1) Under chs. 93 and 95, Wis. Stats., the Department has jurisdiction over the protection of the health of animals in this state and the authority to prevent, control, and eradicate communicable diseases among animals through quarantines and other measures. The Department is authorized to take this action to protect cattle and poultry health in Wisconsin.

(2) H5N1 is an infectious communicable disease that once established could spread rapidly.

(3) Movement and commingling of lactating dairy cattle increases the chances of exposure to H5N1. Limiting the movement and commingling of lactating dairy cattle may prevent and control the spread of the H5N1 virus.

(4) Regulating the movement of lactating dairy cattle to fairs or exhibitions is necessary to limit the spread of H5N1 that threatens the health of cattle and poultry in Wisconsin.

ORDER

Based upon the above stated findings of fact and conclusions of law, and, in accordance with ss. 93.07(10) and 95.20, Wis. Stats., IT IS HEREBY ORDERED that:

(1) Prior to movement to a fair or exhibition, lactating dairy cattle are required to receive a negative test for Influenza A virus at an approved National Animal Health Laboratory Network (NAHLN) laboratory, or an equivalent laboratory in the country of origin. The test must use an NAHLN approved assay, or an equivalent approved by the State Veterinarian. Sample collection for testing must meet all of the following:

- a. The sample type to be collected is milk or udder secretions from individual cows. Each quarter is sampled and combined into one sample for submission to the laboratory. Submissions must be between 3 to 10 milliliters per animal.
- b. The sample must be collected by or under the supervision of a licensed and accredited veterinarian, or an equivalent in the country of origin.

- c. Sample collection and testing must take place no more than 7 days prior to movement to the fair or exhibition.
- d. Pursuant to s. ATCP 10.21(1)(a)2., Wis. Admin. Code, the animal must be identified with an official ear tag. If the animal is not already identified with an official ear tag, the veterinarian must insert an official ear tag in the ear of the animal. The veterinarian must record, on the applicable document, the number of the official individual identification.

(2) This order will remain in effect until 60 days after the last detection of H5N1 in cattle herds in the United States, unless rescinded earlier by order of the State Veterinarian.

Dated this __8th__ day of August, 2024

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

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