

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Livestock Sanitary Board
(Agency or Board)

Regulation No. LSB-1

Subject: amendments to LSB-1 Importation of Cattle

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

JUN 24 1976

BY Ella Stenderman
AUTH. SIGNATURE

Stamped and filed with the Secretary of State June 24, 1976 2:00 pm 2:25 pm

Rev. 9-72

234

Paul F. Strandberg
Special Assistant
Attorney General

July 1, 1976

- LSB-1

ADMIN 1000

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Attorney General

TO : Michael B. Miller
Special Assistant
Attorney General

DATE: June 3, 1976

FROM : Paul A. Strandberg
Special Assistnat
Attorney General

PHONE: 2856

SUBJECT: LSB-1

Attached, please find the above regulations submitted for your approval pursuant to Chapter 15 of Minnesota Statutes.

PAS:jyp
Attachments

MINNESOTA STATE LIVESTOCK SANITARY BOARD

LSB-1 AMENDMENTS TO REGULATION LSB-1 IMPORTATION OF CATTLE

Filed with the Secretary of State and the Commissioner of Administration

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Pursuant to Minnesota Statutes 1973, section 35.03, the Livestock Sanitary Board hereby adopts the following rules and regulations:

(a) Definitions. Where used in these rules and regulations the following words and terms shall be defined as follows:

(1) "Board" shall mean the Minnesota State Livestock Sanitary Board acting by and through the Secretary and Executive Officer.

(2) "Owner" shall mean and refer to the legal owner, his agents, and the person(s) in possession of or caring for the cattle referred to.

(3) "Accredited veterinarian" shall mean a veterinarian accredited by the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture or its successor to perform official services in connection with the cooperative animal disease eradication programs.

(4) "Health Certificate" shall mean a certificate issued by an accredited veterinarian after a physical examination, certifying that the cattle described are free from symptoms of contagious, infectious, or communicable disease and shall include a statement of the origin of the cattle and the name and address of the consignee.

(5) "Official identification" of purebred cattle shall consist of the following:

(aa) Official registration number, tattoo, or complete ear tag number.

(bb) Breed.

(cc) Sex.

(dd) Age.

(ee) Positive identification of brucellosis vaccinates by vaccination certificate, legible tattoo, official vaccination ear tag, or vaccination brand.

(7) "Herd" shall mean any number of cattle owned by one or more persons maintained on one or more premises, which could readily associate with or contact one another, or are routinely cared for by the same personnel.

(8) "Dairy Breed" shall mean breeds of cattle whose primary purpose is the production of milk.

(9) "Beef Breed" shall mean all breeds of cattle except dairy breed.

(10) "Breeding Cattle" shall mean all cattle except steers, spayed heifers, and heifers of beef breed between the ages of 8 and 18 months imported for feeding and grazing purposes, or slaughter cattle as defined in paragraph (13).

(11) "Feeding and grazing cattle" shall mean all steers, spayed heifers, and heifers of beef breed between the ages of 8 and 18 months imported for feeding and grazing purposes.

(12) "Calves" shall mean:

(aa) All cattle of dairy breed under 6 months of age.

(bb) All cattle of beef breed under 8 months of age.

(13) "Slaughter cattle" shall mean all types of cattle not used for dairy, breeding, or feeding and grazing purposes.

(14) "Approved dry lot feeding premises" shall mean an area approved by the Board in accordance with the provisions of regulation LSB-57, Rules and Regulations Governing Approved Dry Lot Feeding Premises.

(15) "Official vaccinate" is a bovine animal of dairy breed vaccinated against brucellosis with an approved Brucella vaccine while from 3 to 6 months (90 to 179 days) of age, or a bovine animal of a beef breed vaccinated against brucellosis with an approved Brucella vaccine while from 3 to 10 months (90 to 299 days) of age, permanently identified as a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of bovine brucellosis.

(b) Cattle consigned to public stockyards, State-Federal approved markets, or slaughtering establishments. Cattle of any class may be consigned without a health certificate or tests for either tuberculosis or brucellosis to a public stockyard or State-Federal approved market. Cattle for immediate slaughter only may be consigned without a health certificate or tests for either tuberculosis or brucellosis to slaughtering establishments where the state or federal government maintains inspection. Cattle officially condemned for tuberculosis or brucellosis may be consigned to these points in compliance with federal regulations for the interstate movement of such cattle.

(c) Health certificates.

(1) All cattle imported into the state of Minnesota, with the exception of those described in section (b), shall be accompanied by a health certificate issued by an accredited veterinarian. Except where specifically exempted in the following sections, the health certificate shall include:

(aa) The official identification of each animal in the shipment.

(bb) Evidence of a negative agglutination test for brucellosis made within thirty (30) days prior to importation.

(2) The agglutination blood test may be conducted by a veterinarian and the results of such test shall be confirmed by a State or Federal laboratory. Cattle may be moved upon completion of the veterinarian's test. If tests are not made by the same veterinarian issuing the certificate, the name and address of such veterinarian and laboratory making the tests shall be included on the certificate.

(3) Proof of official brucellosis vaccination when vaccinated animals are included in the shipment shall be documented on the health certificate.

(4) The health certificate shall be:

(aa) Attached in two copies to the waybill if cattle are moved into the State by railroad and one copy shall be delivered by the carrier to the consignee or his agent, or

(bb) In the possession of driver if cattle are moved into State by vehicle other than by railroad, or

(cc) In the possession of person(s) in charge of cattle moved into the State on foot.

(5) A copy of the health certificate approved by the livestock sanitary official of the State of origin shall be immediately mailed to the office of the Board.

(d) Cattle for immediate slaughter.

(1) Apparently healthy cattle may be imported into Minnesota without individual identification or tests for tuberculosis or brucellosis if consigned for immediate slaughter to an establishment not under inspection by the United States Department of Agriculture, or the State of Minnesota, provided that a permit is obtained from the Secretary and Executive Officer of the Board for each shipment. Such cattle shall be accompanied by a health certificate as provided in section (c). The health certificate shall list the permit number and the number and description of all cattle in the shipment.

(2) Cattle imported under the provisions of this section shall not be unloaded enroute at any point in Minnesota, except when required by Federal law or regulations governing feed, water, and rest. Such cattle shall be slaughtered within 5 days following the date of importation, except when the 5-day period is extended in writing by the Board. Such cattle following arrival at destination shall be held separate and apart from all other cattle, except cattle of the same class, until slaughtered. The consignee shall immediately report to the Board when such cattle are slaughtered, giving the date and place of slaughter and the number of the permit under which the cattle were imported.

(e) Calves.

(1) Unless sold or resold for immediate slaughter, no calves under two (2) months of age, unless accompanied by dam, may be imported into Minnesota for sale or resale except that permits may be obtained by Minnesota residents for importation of such calves for their own use.

(2) Calves of beef breed, over 2 and under 8 months of age, and calves of dairy breed, over 2 and under 6 months of age, may be imported into Minnesota when accompanied by a health certificate as provided in section (c) without either individual identification or tests for tuberculosis and brucellosis.

(f) Breeding cattle from accredited tuberculosis-free herds. Cattle originating directly from accredited tuberculosis-free herds may be imported into Minnesota without a tuberculosis test provided the health certificate lists the date of the last test and the accredited herd certificate number. Progeny of herd since last test need not be tested.

(g) Breeding cattle from modified accredited tuberculosis areas. Cattle from modified accredited tuberculosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for tuberculosis made within 60 days prior to importation. This requirement does not apply to dairy calves under six months of age or beef calves under eight months of age, nor to cattle from States having reciprocity agreements with Minnesota.

(h) Breeding cattle from certified brucellosis-free herds. Cattle originating directly from certified brucellosis-free herds may be imported into Minnesota without a brucellosis test provided the health certificate lists the date of the last test and the brucellosis-free herd certificate number. Progeny of herd since last test need not be tested.

(i) Breeding cattle from modified certified brucellosis areas.

(1) Cattle from modified certified brucellosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for brucellosis made within 30 days prior to importation.

(2) Official vaccinates from such herds may be imported as follows:

(aa) Official vaccinates of the beef breeds under 24 months of age and official vaccinates of the dairy breeds under 20 months of age may be imported without a test for brucellosis but shall be accompanied by proof of vaccination.

(bb) Official vaccinates of the beef breeds 24 months of age and over and official vaccinates of the dairy breeds 20 months of age and over shall be tested for brucellosis within 30 days prior to importation. The test shall show a reaction no higher than complete agglutination in a dilution of 1:50.

(3) Cattle from States with ~~a high~~ an incidence of ~~herd~~ infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding.~~

(4) Calves are not required to be tested.

(j) No cattle shall be imported from herds from which reactors have been removed until the herd of origin has passed two consecutive negative brucellosis herd tests with the first test occurring not less than thirty (30) days following removal of the reactors, and the second test not less than ninety (90) days following the first negative test.

(k) Importation of breeding cattle for test upon arrival.

(1) When circumstances justify the importation of cattle without tests for tuberculosis or brucellosis the Board may issue a permit for importation of such cattle without such tests, provided the cattle are held in quarantine completely isolated from all other cattle until tested at owner's expense to meet the requirements of (g) and (i).

(2) All cattle which disclose a positive reaction to the tuberculosis test and/or non-brucellosis vaccinates which are not completely negative to the brucellosis test shall be identified as reactors. Official vaccinates of dairy breeds over 20 months of age and official vaccinates of beef breeds over 24 months of age which disclose a positive reaction to the brucellosis test higher than complete agglutination in a dilution of 1:50 shall be identified as reactors. All such cattle identified as reactors shall be shipped for slaughter, accompanied by a permit from the Board, to some point where the Federal government maintains inspection. Such reactors are not eligible for indemnity.

(l) Feeding and grazing cattle (as defined in section (a), paragraph (11).)

(1) Steers, spayed heifers, and calves over 2 and under 8 months of age, originating in herds not under quarantine for tuberculosis or for brucellosis may be imported into Minnesota or removed from public stockyards without identification by ear tag and without tests for either tuberculosis or brucellosis.

(2) Other feeding and grazing cattle, not included in (1) (1), may be imported into Minnesota in compliance with the provisions of one of the following:

(aa) Tested for brucellosis within 30 days prior to importation.

(bb) Under permit, providing for either test for brucellosis upon arrival in compliance with section (k), paragraph (1), or resale under affidavit and quarantine as provided in paragraph (4) of this section.

(cc) Official vaccinates of beef breed, as defined in section (a), paragraph (15), may be imported for feeding and grazing purposes when under eighteen (18) months of age.

(dd) Under SPECIAL PERMIT as outlined in paragraph (4) of this section.

(3) A tuberculosis test is not required on cattle imported from modified accredited tuberculosis areas under the provisions of section (1), paragraph (2) above. Such cattle so imported are quarantined upon arrival at destination and shall be maintained in isolation separate and apart from all other cattle except like quarantined cattle. The quarantine on such feeding and grazing cattle may be released by the Board under the following conditions:

(aa) When the Board has received satisfactory evidence that the cattle have been shipped under permit to a public stockyard or slaughtering establishment.

(bb) When such cattle have passed all tests for tuberculosis and brucellosis required by regulations and the records of such tests have been received in the office of the Board.

(4) The Board may issue a SPECIAL PERMIT providing for the importation, or movement from public stockyards, of individual shipments of female feeding and grazing cattle. Such cattle may enter under quarantine without tests for tuberculosis or brucellosis either at points of origin or destination provided:

(aa) Such cattle are accompanied by a health certificate.

(bb) Such cattle shall be immediately delivered to premises at the destination shown on the permit, and shall be segregated from all other cattle except steers, spayed heifers, or like quarantined cattle imported into Minnesota under the provisions of this section, or maintained in accordance with the provisions of a feeder cattle affidavit as provided in Minnesota Statutes 1973, section 35.245, subdivision 3. Such segregation shall include double fencing where said cattle are confined in such a manner as to prevent access to other cattle in adjoining yards, pastures, or fields, and such fencing as may be necessary to prevent access of such quarantined cattle to water courses or drainage ditches which flow through or discharge onto such yards, pastures, or fields.

(cc) That all cattle in such shipment shall be maintained separate and apart from all other cattle, except steers, spayed heifers, and like quarantined cattle, from time of arrival at destination until:

(i) Shipped for slaughter under permit from the Board, or

(ii) Consigned to a public stockyard where State or Federal inspection is maintained, or

(iii) Resold for feeding purposes in accordance with Minnesota Statutes 1973, section 35.245, subdivision 3, and the rules and regulations of the Board adopted pursuant thereto.

(iv) At the discretion of the Board, the owner of either SPECIAL PERMIT cattle or AFFIDAVIT cattle (as provided in Minnesota Statutes 1973, section 35.245, subdivision 3), may be authorized to have all or a part of such cattle tested for tuberculosis and brucellosis on his premises at his expense to meet import requirements. Such tested cattle shall be maintained or disposed of as follows:

(aaa) If all of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and found negative the quarantine will be released.

(bbb) If reactors are disclosed no cattle may be sold except for slaughter on permit from the Board.

(ccc) The diagnosis of brucellosis tests shall be made in accordance with regulation LSB-11.

(ddd) If all of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board or isolated from all other tested cattle and all negative cattle may be sold.

(eee) If part of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board and all negative cattle sold under quarantine for a retest no sooner than 30 nor more than 60 days following the first test.

(fff) If only part of the SPEC[illegible] PERMIT or AFFIDAVIT cattle are tested and negative then such cattle must be isolated until retested for brucellosis at owner's expense no sooner than thirty (30) days nor more than 60 days following the initial test, or sold under quarantine for retest at owner's expense no sooner than thirty (30) days nor more than 60 days following the initial test.

(ggg) Any animal showing a positive reaction to the tuberculosis test and all brucellosis reactors shall be identified as reactors and shipped for slaughter to a slaughtering establishment where there is Federal inspection. A permit from the Board is required and such reactors are not eligible for indemnity.

(dd) That the owners of all such cattle shall permit agents of the Board to inspect and examine said cattle and the premises on which they are maintained at any reasonable time that such agents make demand therefor.

(ee) If such agents determine that said cattle are not satisfactorily confined as provided in section (1), paragraph (4), subparagraph (bb) above, the owner of said cattle shall immediately correct the facilities for segregation. The owner shall, at his own expense, employ a veterinarian to test all cattle which have either associated with or have been exposed to the quarantined cattle for tuberculosis and/or brucellosis. Steers and spayed heifers are not required to be tested for brucellosis. All such exposed cattle which are not completely negative to such tests shall be identified as reactors. All reactors shall be shipped for slaughter, accompanied by a permit, to some point where Federal inspection is maintained. Such reactors are not eligible for indemnity.

(m) Approved dry lot feeding premises.

(1) The Board may issue a permit providing for the importation or movement from public stockyards, under quarantine, to approved dry lot feeding premises of individual shipments of all types of cattle without tests for tuberculosis or brucellosis either at points of origin or destination provided:

(aa) The consignment is accompanied by a health certificate.

(bb) Each animal is individually identified by an official ear tag.

(cc) All cattle received under such permit are immediately delivered to and confined only in the approved dry lot feeding premises shown on the permit. There shall be no diversion enroute.

(dd) All cattle imported under permit into an approved dry lot feeding premises are branded with the letter "F" at least 3 inches high on the right jaw with a hot iron in such a manner that the brand shall be permanent. It shall be the responsibility of the owner or his agent(s) to brand such cattle either prior to or within 72 hours following their arrival at such premises.

(n) Cattle not accompanied by proper health certificate.

(1) All cattle imported into Minnesota in violation of State law or these rules and regulations are under quarantine. Such cattle shall be examined and tested for tuberculosis and brucellosis as required within 72 hours thereafter. Such examination and tests shall be made by a veterinarian at owner's expense. All cattle showing symptoms of any infectious, contagious, or communicable disease when so examined shall be shipped, under permit, for slaughter only. All cattle which do not evidence completely negative reactions to tests for tuberculosis or brucellosis shall be immediately identified as reactors and shipped, under permit, for slaughter only, to some point where Federal inspection is maintained. Official vaccinates shall be diagnosed in accordance with previous sections of this regulation.

APPROVED AS TO FORM AND LEGALITY
JUN 23 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
JUN 24 1976
BY Linda Studenmaier
AUTH. SIGNATURE
2:25 PM.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 24 1976 - 2:00 pm
Joan Anderson Growe
Secretary of State

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Paul Strandberg do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Paul Strandberg

Special Assistant Attorney General

Dated: June 3, 1976

See attached memorandum.

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Peter C. Erickson
Hearing Examiner

DATE: February 4, 1976

FROM : Paul A. Strandberg
Special Assistant
Attorney General

SUBJECT: Amendment to LSB-1.

At the hearing on the above matter which was held on January 27, 1976 at the Veterans Service Building, two questions arose regarding which you asked my opinion.

You first inquire about the amendment which was proposed at that hearing to change the proposed LSB-1, (i) (3) to read:

> (3) Cattle from States with ~~a high~~ an incidence of ~~herd~~ infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding. Based on the herd infection rates for each of the states, the Secretary and Executive Officer shall make a determination in accordance with criteria established by the Board.~~

(Language in first sentence which was stricken was stricken by amendments at the hearing; underlined words were proposed at hearing; second to last sentence was stricken by proposed amendment; last sentence was proposed in original changes and stricken at hearing.)

The rules of the Attorney General, AttyGen 304, provide that:

> If a change is made which goes either to another subject matter or results in a rule fundamentally different from that contained in the Notice of Hearing, a further hearing must be held, at least on the rules insofar as they relate to another subject matter or are fundamentally different from the Notice of Hearing.

The Notice of Hearing states the purpose of the hearing was:

> To amend rules related to the following:
>
> --Section (i), Subsection (3)

--Change from a fiscal year basis to a more frequent determination of herd infection rates of States of origin to determine the need for a brucellosis retest of imported cattle.

--To clarify the responsibility of the Board with respect to which of the States will be included in the retest requirement.

This description contained in the notice fully describes the changes which were made both in the proposed rules and at the hearing. Both changes amend Section (i), Subsection (3); both changes permit more frequent determination of herd infection rates in each state, to allow the Livestock Sanitary Board to use the most current data put out by the Department of Agriculture; both also clarify the responsibility of the Board as to which states' cattle will be subject to quarantine. Indeed, the change at the hearing goes beyond the original proposal in clarifying the infection rate which has always been used as a guideline by the Livestock Sanitary Board, five herds per thousand. Therefore, I believe that the change to the originally proposed amendments which was proposed at the hearing neither goes to another subject matter nor "results in rule fundamentally different from that contained in the Notice of Hearing...".

Another question was raised as to whether the failure of the notice to state the room in which the hearing was to be held would make it deficient. Since the notice specified that the hearing would be at the Veterans Service Building and there was a sign which indicated the hearing room number which was prominently posted by the elevators, I do not think that anyone could have missed the hearing or have been misled by the notice because of that deficiency. Thus, I believe that the notice was satisfactory.

PAS:jyp

Proposed

MINNESOTA STATE LIVESTOCK SANITARY BOARD

LSB-1 AMENDMENTS TO REGULATION LSB-1 IMPORTATION OF CATTLE

Filed with the Secretary of State and the Commissioner of Administration

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Pursuant to Minnesota Statutes 1973, section 35.03, the Livestock Sanitary Board hereby adopts the following rules and regulations:

(a) Definitions. Where used in these rules and regulations the following words and terms shall be defined as follows:

(1) "Board" shall mean the Minnesota State Livestock Sanitary Board acting by and through the Secretary and Executive Officer.

(2) "Owner" shall mean and refer to the legal owner, his agents, and the person(s) in possession of or caring for the cattle referred to.

(3) "Accredited veterinarian" shall mean a veterinarian accredited by the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture or its successor to perform official services in connection with the cooperative animal disease eradication programs.

(4) "Health Certificate" shall mean a certificate issued by an accredited veterinarian after a physical examination, certifying that the cattle described are free from symptoms of contagious, infectious, or communicable disease and shall include a statement of the origin of the cattle and the name and address of the consignee.

(5) "Official identification" of purebred cattle shall consist of the following:

(aa) Official registration number, tattoo, or complete ear tag number.

(bb) Breed.

(cc) Sex.

(dd) Age.

(ee) Positive identification of brucellosis vaccinates by vaccination certificate, legible tattoo, official vaccination ear tag, or vaccination brand.

(7) "Herd" shall mean any number of cattle owned by one or more persons maintained on one or more premises, which could readily associate with or contact one another, or are routinely cared for by the same personnel.

(8) "Dairy Breed" shall mean breeds of cattle whose primary purpose is the production of milk.

(9) "Beef Breed" shall mean all breeds of cattle except dairy breed.

(10) "Breeding Cattle" shall mean all cattle except steers, spayed heifers, and heifers of beef breed between the ages of 8 and 18 months imported for feeding and grazing purposes, or slaughter cattle as defined in paragraph (13).

(11) "Feeding and grazing cattle" shall mean all steers, spayed heifers, and heifers of beef breed between the ages of 8 and 18 months imported for feeding and grazing purposes.

(12) "Calves" shall mean:

(aa) All cattle of dairy breed under 6 months of age.

(bb) All cattle of beef breed under 8 months of age.

(13) "Slaughter cattle" shall mean all types of cattle not used for dairy, breeding, or feeding and grazing purposes.

(14) "Approved dry lot feeding premises" shall mean an area approved by the Board in accordance with the provisions of regulation LSB-57, Rules and Regulations Governing Approved Dry Lot Feeding Premises.

(15) "Official vaccinate" is a bovine animal of dairy breed vaccinated against brucellosis with an approved Brucella vaccine while from 3 to 6 months (90 to 179 days) of age, or a bovine animal of a beef breed vaccinated against brucellosis with an approved Brucella vaccine while from 3 to 10 months (90 to 299 days) of age, permanently identified as a vaccinate, and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of bovine brucellosis.

(b) Cattle consigned to public stockyards, State-Federal approved markets, or slaughtering establishments. Cattle of any class may be consigned without a health certificate or tests for either tuberculosis or brucellosis to a public stockyard or State-Federal approved market. Cattle for immediate slaughter only may be consigned without a health certificate or tests for either tuberculosis or brucellosis to slaughtering establishments where the state or federal government maintains inspection. Cattle officially condemned for tuberculosis or brucellosis may be consigned to these points in compliance with federal regulations for the interstate movement of such cattle.

(c) Health certificates.

(1) All cattle imported into the state of Minnesota, with the exception of those described in section (b), shall be accompanied by a health certificate issued by an accredited veterinarian. Except where specifically exempted in the following sections, the health certificate shall include:

(aa) The official identification of each animal in the shipment.

(bb) Evidence of a negative agglutination test for brucellosis made within thirty (30) days prior to importation.

(2) The agglutination blood test may be conducted by a veterinarian and the results of such test shall be confirmed by a State or Federal laboratory. Cattle may be moved upon completion of the veterinarian's test. If tests are not made by the same veterinarian issuing the certificate, the name and address of such veterinarian and laboratory making the tests shall be included on the certificate.

(3) Proof of official brucellosis vaccination when vaccinated animals are included in the shipment shall be documented on the health certificate.

(4) The health certificate shall be:

(aa) Attached in two copies to the waybill if cattle are moved into the State by railroad and one copy shall be delivered by the carrier to the consignee or his agent, or

(bb) In the possession of driver if cattle are moved into State by vehicle other than by railroad, or

(cc) In the possession of person(s) in charge of cattle moved into the State on foot.

(5) A copy of the health certificate approved by the livestock sanitary official of the State of origin shall be immediately mailed to the office of the Board.

(d) Cattle for immediate slaughter.

(1) Apparently healthy cattle may be imported into Minnesota without individual identification or tests for tuberculosis or brucellosis if consigned for immediate slaughter to an establishment not under inspection by the United States Department of Agriculture, or the State of Minnesota, provided that a permit is obtained from the Secretary and Executive Officer of the Board for each shipment. Such cattle shall be accompanied by a health certificate as provided in section (c). The health certificate shall list the permit number and the number and description of all cattle in the shipment.

(2) Cattle imported under the provisions of this section shall not be unloaded enroute at any point in Minnesota, except when required by Federal law or regulations governing feed, water, and rest. Such cattle shall be slaughtered within 5 days following the date of importation, except when the 5-day period is extended in writing by the Board. Such cattle following arrival at destination shall be held separate and apart from all other cattle, except cattle of the same class, until slaughtered. The consignee shall immediately report to the Board when such cattle are slaughtered, giving the date and place of slaughter and the number of the permit under which the cattle were imported.

(e) Calves.

(1) Unless sold or resold for immediate slaughter, no calves under two (2) months of age, unless accompanied by dam, may be imported into Minnesota for sale or resale except that permits may be obtained by Minnesota residents for importation of such calves for their own use.

(2) Galves of beef breed, over 2 and under 8 months of age, and calves of dairy breed, over 2 and under 6 months of age, may be imported into Minnesota when accompanied by a health certificate as provided in section (c) without either individual identification or tests for tuberculosis and brucellosis.

(f) Breeding cattle from accredited tuberculosis-free herds. Cattle originating directly from accredited tuberculosis-free herds may be imported into Minnesota without a tuberculosis test provided the health certificate lists the date of the last test and the accredited herd certificate number. Progeny of herd since last test need not be tested.

(g) Breeding cattle from modified accredited tuberculosis areas. Cattle from modified accredited tuberculosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for tuberculosis made within 60 days prior to importation. This requirement does not apply to dairy calves under six months of age or beef calves under eight months of age, nor to cattle from States having reciprocity agreements with Minnesota.

(h) Breeding cattle from certified brucellosis-free herds. Cattle originating directly from certified brucellosis-free herds may be imported into Minnesota without a brucellosis test provided the health certificate lists the date of the last test and the brucellosis-free herd certificate number. Progeny of herd since last test need not be tested.

(i) Breeding cattle from modified certified brucellosis areas.

(1) Cattle from modified certified brucellosis areas shall originate from herds not under quarantine. Such cattle shall be accompanied by a health certificate certifying to a negative test for brucellosis made within 30 days prior to importation.

(2) Official vaccinates from such herds may be imported as follows:

(aa) Official vaccinates of the beef breeds under 24 months of age and official vaccinates of the dairy breeds under 20 months of age may be imported without a test for brucellosis but shall be accompanied by proof of vaccination.

(bb) Official vaccinates of the beef breeds 24 months of age and over and official vaccinates of the dairy breeds 20 months of age and over shall be tested for brucellosis within 30 days prior to importation. The test shall show a reaction no higher than complete agglutination in a dilution of 1:50.

(3) Cattle from States with a high incidence of herd infection as determined by statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding.~~ Based on the herd infection rates for each of the states, the Secretary and Executive Officer shall make a determination in accordance with criteria established by the Board.

(4) Calves are not required to be tested.

(j) No cattle shall be imported from herds from which reactors have been removed until the herd of origin has passed two consecutive negative brucellosis herd tests with the first test occurring not less than thirty (30) days following removal of the reactors, and the second test not less than ninety (90) days following the first negative test.

(k) Importation of breeding cattle for test upon arrival.

(1) When circumstances justify the importation of cattle without tests for tuberculosis or brucellosis the Board may issue a permit for importation of such cattle without such tests, provided the cattle are held in quarantine completely isolated from all other cattle until tested at owner's expense to meet the requirements of (g) and (i).

(2) Official vaccinates from such herds may be imported as follows:

(aa) Official vaccinates of the beef breeds under 24 months of age and official vaccinates of the dairy breeds under 20 months of age may be imported without a test for brucellosis but shall be accompanied by proof of vaccination.

(bb) Official vaccinates of the beef breeds 24 months of age and over and official vaccinates of the dairy breeds 20 months of age and over shall be tested for brucellosis within 30 days prior to importation. The test shall show a reaction no higher than complete agglutination in a dilution of 1:50.

(3) Cattle from States with ~~a high~~ an incidence of ~~herd~~ infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding.~~

(4) Calves are not required to be tested.

(j) No cattle shall be imported from herds from which reactors have been removed until the herd of origin has passed two consecutive negative brucellosis herd tests with the first test occurring not less than thirty (30) days following removal of the reactors, and the second test not less than ninety (90) days following the first negative test.

(k) Importation of breeding cattle for test upon arrival.

(1) When circumstances justify the importation of cattle without tests for tuberculosis or brucellosis the Board may issue a permit for importation of such cattle without such tests, provided the cattle are held in quarantine completely isolated from all other cattle until tested at owner's expense to meet the requirements of (g) and (i).

(2) All cattle which disclose a positive reaction to the tuberculosis test and/or non-brucellosis vaccinates which are not completely negative to the brucellosis test shall be identified as reactors. Official vaccinates of dairy breeds over 20 months of age and official vaccinates of beef breeds over 24 months of age which disclose a positive reaction to the brucellosis test higher than complete agglutination in a dilution of 1:50 shall be identified as reactors. All such cattle identified as reactors shall be shipped for slaughter, accompanied by a permit from the Board, to some point where the Federal government maintains inspection. Such reactors are not eligible for indemnity.

(1) Feeding and grazing cattle (as defined in section (a), paragraph (11).)

(1) Steers, spayed heifers, and calves over 2 and under 8 months of age, originating in herds not under quarantine for tuberculosis or for brucellosis may be imported into Minnesota or removed from public stockyards without identification by ear tag and without tests for either tuberculosis or brucellosis.

(2) Other feeding and grazing cattle, not included in (1) (1), may be imported into Minnesota in compliance with the provisions of one of the following:

(aa) Tested for brucellosis within 30 days prior to importation.

(bb) Under permit, providing for either test for brucellosis upon arrival in compliance with section (k), paragraph (1), or resale under affidavit and quarantine as provided in paragraph (4) of this section.

(cc) Official vaccinates of beef breed, as defined in section (a), paragraph (15), may be imported for feeding and grazing purposes when under eighteen (18) months of age.

(dd) Under SPECIAL PERMIT as outlined in paragraph (4) of this section.

(3) A tuberculosis test is not required on cattle imported from modified accredited tuberculosis areas under the provisions of section (1), paragraph (2) above. Such cattle so imported are quarantined upon arrival at destination and shall be maintained in isolation separate and apart from all other cattle except like quarantined cattle. The quarantine on such feeding and grazing cattle may be released by the Board under the following conditions:

(aa) When the Board has received satisfactory evidence that the cattle have been shipped under permit to a public stockyard or slaughtering establishment.

(bb) When such cattle have passed all tests for tuberculosis and brucellosis required by regulations and the records of such tests have been received in the office of the Board.

(4) The Board may issue a SPECIAL PERMIT providing for the importation, or movement from public stockyards, of individual shipments of female feeding and grazing cattle. Such cattle may enter under quarantine without tests for tuberculosis or brucellosis either at points of origin or destination provided:

(aa) Such cattle are accompanied by a health certificate.

(bb) Such cattle shall be immediately delivered to premises at the destination shown on the permit, and shall be segregated from all other cattle except steers, spayed heifers, or like quarantined cattle imported into Minnesota under the provisions of this section, or maintained in accordance with the provisions of a feeder cattle affidavit as provided in Minnesota Statutes 1973, section 35.245, subdivision 3. Such segregation shall include double fencing where said cattle are confined in such a manner as to prevent access to other cattle in adjoining yards, pastures, or fields, and such fencing as may be necessary to prevent access of such quarantined cattle to water courses or drainage ditches which flow through or discharge onto such yards, pastures, or fields.

(cc) That all cattle in such shipment shall be maintained separate and apart from all other cattle, except steers, spayed heifers, and like quarantined cattle, from time of arrival at destination until:

(i) Shipped for slaughter under permit from the Board, or

(ii) Consigned to a public stockyard where State or Federal inspection is maintained, or

(iii) Resold for feeding purposes in accordance with Minnesota Statutes 1973, section 35.245, subdivision 3, and the rules and regulations of the Board adopted pursuant thereto.

(iv) At the discretion of the Board, the owner of either SPECIAL PERMIT cattle or AFFIDAVIT cattle (as provided in Minnesota Statutes 1973, section 35.245, subdivision 3), may be authorized to have all or a part of such cattle tested for tuberculosis and brucellosis on his premises at his expense to meet import requirements. Such tested cattle shall be maintained or disposed of as follows:

(aaa) If all of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and found negative the quarantine will be released.

(bbb) If reactors are disclosed no cattle may be sold except for slaughter on permit from the Board.

(ccc) The diagnosis of brucellosis tests shall be made in accordance with regulation LSB-11.

(ddd) If all of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board or isolated from all other tested cattle and all negative cattle may be sold.

(eee) If part of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and suspects are disclosed the suspects shall be sent to slaughter on permit from the Board and all negative cattle sold under quarantine for a retest no sooner than 30 nor more than 60 days following the first test.

(fff) If only part of the SPECIAL PERMIT or AFFIDAVIT cattle are tested and negative then such cattle must be isolated until retested for brucellosis at owner's expense no sooner than thirty (30) days nor more than 60 days following the initial test, or sold under quarantine for retest at owner's expense no sooner than thirty (30) days nor more than 60 days following the initial test.

(ggg) Any animal showing a positive reaction to the tuberculosis test and all brucellosis reactors shall be identified as reactors and shipped for slaughter to a slaughtering establishment where there is Federal inspection. A permit from the Board is required and such reactors are not eligible for indemnity.

(dd) That the owners of all such cattle shall permit agents of the Board to inspect and examine said cattle and the premises on which they are maintained at any reasonable time that such agents make demand therefor.

(ee) If such agents determine that said cattle are not satisfactorily confined as provided in section (1), paragraph (4), subparagraph (bb) above, the owner of said cattle shall immediately correct the facilities for segregation. The owner shall, at his own expense, employ a veterinarian to test all cattle which have either associated with or have been exposed to the quarantined cattle for tuberculosis and/or brucellosis. Steers and spayed heifers are not required to be tested for brucellosis. All such exposed cattle which are not completely negative to such tests shall be identified as reactors. All reactors shall be shipped for slaughter, accompanied by a permit, to some point where Federal inspection is maintained. Such reactors are not eligible for indemnity.

(m) Approved dry lot feeding premises.

(1) The Board may issue a permit providing for the importation or movement from public stockyards, under quarantine, to approved dry lot feeding premises of individual shipments of all types of cattle without tests for tuberculosis or brucellosis either at points of origin or destination provided:

(aa) The consignment is accompanied by a health certificate.

(bb) Each animal is individually identified by an official ear tag.

(cc) All cattle received under such permit are immediately delivered to and confined only in the approved dry lot feeding premises shown on the permit. There shall be no diversion enroute.

(dd) All cattle imported under permit into an approved dry lot feeding premises are branded with the letter "F" at least 3 inches high on the right jaw with a hot iron in such a manner that the brand shall be permanent. It shall be the responsibility of the owner or his agent(s) to brand such cattle either prior to or within 72 hours following their arrival at such premises.

(n) Cattle not accompanied by proper health certificate.

(1) All cattle imported into Minnesota in violation of State law or these rules and regulations are under quarantine. Such cattle shall be examined and tested for tuberculosis and brucellosis as required within 72 hours thereafter. Such examination and tests shall be made by a veterinarian at owner's expense. All cattle showing symptoms of any infectious, contagious, or communicable disease when so examined shall be shipped, under permit, for slaughter only. All cattle which do not evidence completely negative reactions to tests for tuberculosis or brucellosis shall be immediately identified as reactors and shipped, under permit, for slaughter only, to some point where Federal inspection is maintained. Official vaccinates shall be diagnosed in accordance with previous sections of this regulation.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER C ERICKSON
HEARING EXAMINER

In the Matter of the Proposed Amendment
to Rules of the State Livestock Sanitary Board,
Governing the Importation of Cattle, LSB-1.

STATEMENT OF NEED

The above-captioned amendments are to existing rules of the Livestock Sanitary Board. The last time the above-captioned rules were amended was May 19, 1975.

The need to amend these rules arises because of changed brucellosis infected herd reporting methods used by the Animal and Plant Health Inspection Service, United States Department of Agriculture, and to enable the Livestock Sanitary Board to more quickly respond to these changes in infection rate of exporting States, so that retests may be made on imported cattle where required. The amendment will clarify the duties of the Board and the Secretary and Executive Officer with respect to brucellosis retest requirements. The amendments will further strengthen the efforts of the Board to follow legislative mandate to protect the health of domestic animals in the State of Minnesota.

J. G. Flint, D.V.M.
Secretary and Executive Officer

December 10, 1975
Date

CERTIFICATE

OF

BOARD'S AUTHORIZING RESOLUTION

I, J. G. Flint, do hereby certify that I am Secretary of the Livestock Sanitary Board, a Board duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the Livestock Sanitary Board duly and properly called and held on the 17th day of October, 1975, that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the Minutes of said meeting and has not been rescinded or modified:

> "RESOLVED, that the Secretary and Executive Officer of the Livestock Sanitary Board, be and he hereby is granted the authority and directed to call a hearing for the purpose of amending regulation LSB-1, Importation of Cattle, as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing, and that the Secretary and Executive Officer or a person whom he shall appoint act as presiding officer at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 10th day of December, 1975.

J. G. Flint

J. G. FLINT, D.V.M.
Secretary and Executive Officer
Minnesota Livestock Sanitary Board

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER C ERICKSON
HEARING EXAMINER

In the Matter of the Proposed Amendment
to Rules of the State Livestock Sanitary
Board, Governing the Importation of Cattle,
LSB-1.

ORDER FOR HEARING

To effectively implement and make more specific the Livestock Sanitary Board deems it necessary to consider amending the above-captioned rules pursuant to the authority vested in me by M. S. 1974, Section 35.03.

NOW, THEREFORE, IT IS ORDERED this 17th day of October, 1975, that a public hearing on the proposed amendment to the above-captioned rules be held in Room B, Veterans Service Building, State of Minnesota, St. Paul, Minnesota, on the 27th day of January, 1976, commencing at 10:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

J. G. Flint, D.V.M.
Secretary and Executive Officer
Livestock Sanitary Board

not very

H.E. ex #2

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER C ERICKSON
HEARING EXAMINER

In the Matter of Proposed Amendment
to Rules Relating to LSB-1, Importation
of Cattle.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M. S. 1974, Section 15.0412, Subd. 4, in the above-entitled matter, in Veterans Service Building, St. Paul, Minnesota, on Tuesday, January 27, 1976, commencing at 10:00 a.m., and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing, and will be accepted for inclusion in the record for 20 days following the hearing.

The Livestock Sanitary Board proposes to amend these rules relating to the following:

--Section (i), Subsection (3)

--Change from a fiscal year basis to a more frequent determination of herd infection rates of States of origin to determine the need for a brucellosis retest of imported cattle.

--To clarify the responsibility of the Board with respect to which of the States will be included in the retest requirement.

Under Minn. Stat. § 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, St. Paul, Minnesota 55155.

Copies of the proposed rules are now available and may be obtained by writing to the Minnesota Livestock Sanitary Board, 555 Wabasha Street, St. Paul, Minnesota 55102. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA
LIVESTOCK SANITARY BOARD

J. G. Flint

J. G. Flint, D.V.M.
Secretary and Executive Officer

Dated this 10th day of December, 1975.

H.E. ex #3

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Amendment
of Rules of the State Livestock Sanitary
Board, Governing the Importation of Cattle,
LSB-1.

I hereby certify that the attached 448 labeled x Two sheets constitute the complete list of persons, associations, and other interested groups who as of 11:15 a.m. o'clock, this 22nd day of December 1975, have requested pursuant to M.S. 1971, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subjects captioned above.

Joan Anderson Growe
Secretary of State

By: Cecil Dion

H.E. ex #4

STATE OF MINNESOTA

AFFIDAVIT OF MAILING

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Amendments to Rules of the State Livestock Sanitary Board, Governing LSB-1, Importation of Cattle.

Robert S Pyle, being first duly sworn, deposes and says:

That on the 24th day of December, 1975, at the City of St Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Robert S Pyle

Subscribed and sworn to before me

this 24th day of December, 1975.

JUDITH D. KRETZMANN
Notary Public, Ramsey Co., Mn.
My Commission Expires
August 6, 1981

Judith D. Kretzmann

Notary Public

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
1745 University Avenue
St. Paul, Minnesota 55104

FOR THE LIVESTOCK SANITARY BOARD

In the Matter of the Proposed Amendment to Rules of the State Livestock Sanitary Board, Governing the Importation of Cattle, LSB-1.

HEARING EXAMINERS
DOCKET NO. LSB-76-001-PE

REPORT OF HEARING EXAMINER

The above entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 10:00 a.m. on Tuesday, January 27, 1976, in Room 304 of the Veterans Service Building. Paul Strandberg, Special Assistant Attorney General, 420 State Office Building, St. Paul, Minnesota 55155, appeared on behalf of the Livestock Sanitary Board. Dr. J. G. Flint, Secretary and Executive Officer of the Board, and Dr. Robert Pyle, Imports and Markets Section, Room 300, 555 Wabasha Street, St. Paul, Minnesota 55102, were witnesses for the petitioner. There were no other appearances or statements either in support of or opposition to the proposed amendment to the rules of the Livestock Sanitary Board.

Pursuant to Minn. Stat. § 15.052, subd. 3 (1975 Supp.) this report will include findings of fact, conclusions and recommendations. The Livestock Sanitary Board shall make a copy of this report available to any interested person upon request. No earlier than ten days subsequent to the receipt of this report, the Board shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner, including the rule as originally proposed and the rule as proposed for adoption in its final form.

The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issue of substantial changes in the rule within ten calendar days. The Board will be responsible for filing the rules with the Attorney General.

Based upon the proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

I

The statutory authority for the Livestock Sanitary Board to promulgate the proposed amendments to its rules is found in Minn. Stat., § 35.03.

II

The Livestock Sanitary Board did comply with all procedural requirements in regard to the commencement of this hearing.

III

Undisputed testimony established that brucellosis is an infectious, contagious, communicable disease of cattle which can affect humans, causing undulant fever. In 1973, there was an 8 percent increase in the brucellosis infection rate over the previous year and in 1974, a 12 percent increase. There is at present a nationwide brucellosis eradication program.

IV

The rule which is proposed to be amended was adopted when the United States Department of Agriculture published a document once a year giving the amount of brucellosis infection that existed in each state and also breaking it down to the infection rate per thousand herds. This information is now being published on a monthly basis as the infection rates do change from month to month.

V

The Livestock Sanitary Board, by way of resolution on October 17, 1975, such being admitted into the record, authorized a proposed amendment to the present rules which would allow the Board to make use of the United States Department of Agriculture's document on a monthly, rather than yearly, basis.

VI

By way of exhibit and undisputed testimony, it was established that approximately 89 percent of the infected herds that have been disclosed for brucellosis in the past year came from eleven states. It was the intention of the Livestock Sanitary Board to use a standard so that animals imported from those eleven states would have to be quarantined for a brucellosis retest. The establishment of a criteria of five infected herds or more per thousand herds would include those eleven states and perhaps one or two more, depending on the monthly report by the federal government.

VII

To reflect the "five herds or more per thousand herds" criteria, an amendment was proposed to the rule amendment already being considered.

CONCLUSIONS

I

Brucellosis is a disease which poses a danger to public health.

II

Allowing the Livestock Sanitary Board to make retest determinations on a monthly, rather than yearly, basis will benefit the general health and well being of all Minnesotans.

III

Using the "five herds or more per thousand herds" criteria will allow for maximum safety without an undue hardship on the cattle industry.

IV

The proposed amendment to the rule amendment originally considered is not a substantial change as it does not go to another subject matter or result in a rule fundamentally different from that contained in the Notice of Hearing.

V

The amendment to LSB-1(i)(3), as amended, is both needed and reasonable.

RECOMMENDATION

It is recommended that the amendment to LSB-1(i)(3), as amended and attached to this report, be adopted by the Livestock Sanitary Board.

Dated: 2-18-76

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner
Office of Hearing Examiners
1745 University Avenue
St. Paul, Minnesota 55104

RULE AMENDMENT AS ORIGINALLY PROPOSED

(3) Cattle from States with a high incidence of herd infection as determined by statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding.~~ Based on the herd infection rates for each of the states, the Secretary and Executive Officer shall make a determination in accordance with criteria established by the Board.

RULE AS RECOMMENDED TO BE ADOPTED

(3) Cattle from States with ~~a high~~ an incidence of ~~herd~~ infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding. Based on the herd infection rates for each of the states, the Secretary and Executive Officer shall make a determination in accordance with criteria established by the Board.~~

(Language in first sentence which was stricken was stricken by amendments at the hearing; underlined words were proposed at hearing; second to last sentence was stricken by proposed amendment; last sentence was proposed in original changes and stricken at hearing.)

STATE OF MINNESOTA
OFFICE OF HEARINGS EXAMINERS

FOR THE MINNESOTA LIVESTOCK SANITARY BOARD

In the Matter of the Proposed Amendment to Rules of the State Livestock Sanitary Board, Governing the Importation of Cattle, LSB-1.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS a hearing was held on January 27, 1976 before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners on the above-entitled matter in compliance with Minn. Stat., § 15.0412, subd. 4; and

WHEREAS the Hearing Examiner submitted a report to the Livestock Sanitary Board pursuant to Minn. Stat., § 15.052, subd. 3, recommending adoption of the proposed rules as amended; and

WHEREAS, the Livestock Sanitary Board has now determined to adopt rules pursuant to Minn. Stat., § 15.0412, subd. 4; and

WHEREAS, the Livestock Sanitary Board has submitted said rules to the Acting Chief Hearings Examiner for review pursuant to Minn. Stat., § 15.052, subd. 4 and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that there are no substantial changes in said rules as originally proposed and that all of the requirements of Minn. Stat., § 15.0412, subd. 4 have been met;

NOW, THEREFORE, upon receipt of this Report, the Livestock Sanitary Board has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General pursuant to Minn. Stat., § 15.0412, subd. 4.

Dated this 11th day of May, 1976.

DUANE HARVES
Chief Hearing Examiner

CERTIFICATE

OF

BOARD'S ADOPTION OF RULES RESOLUTION

I, Dr. J. G. Flint, do hereby certify that I am the Secretary and Executive Officer of the Livestock Sanitary Board, a board duly authorized under the laws of the State of Minnesota, and that the following is true, complete, and correct copy of a resolution adopted at a meeting of the Livestock Sanitary Board duly and properly called and held on the 16th day of April, 1976, that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the Minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the rules relating to LSB-1, Importation of Cattle, be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 1974, Section 35.03 and that Dr. A. B. Magnusson, one of the members of the Minnesota State Livestock Sanitary Board, be and hereby is authorized to sign an order adopting these rules.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of April, 1976.

J. G. Flint

J. G. FLINT, D.V.M.
Secretary and Executive Officer
Minnesota Livestock Sanitary Board

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Hearing Examiner Peter C Erickson of the State Office of Hearing Examiners on the 27th day of January, 1976, at 10:00 a.m. in Conference Room 304, Veterans Service Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes 1974, Section 15.0412, Subd. 4, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as LSB-1, Importation of Cattle, are adopted this 16th day of April, 1976, pursuant to authority vested in me by resolution adopted by the Minnesota State Livestock Sanitary Board at a duly and properly called meeting held on the 16th day of April, 1976.

A. B. Magnusson DVM

A. B. Magnusson, President
Minnesota Livestock Sanitary Board

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Paul Strandberg do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Paul Strandberg

Special Assistant Attorney General

Dated: June 3, 1976

See attached memorandum.

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Peter C. Erickson
Hearing Examiner

DATE: February 4, 1976

FROM : Paul A. Strandberg
Special Assistant
Attorney General

SUBJECT: Amendment to LSB-1.

At the hearing on the above matter which was held on January 27, 1976 at the Veterans Service Building, two questions arose regarding which you asked my opinion.

You first inquire about the amendment which was proposed at that hearing to change the proposed LSB-1, (i) (3) to read:

> (3) Cattle from States with ~~a high~~ an incidence of ~~herd~~ infection of five herds or more per thousand herds as determined by the most current statistical data of the Animal and Plant Health Inspection Service of the United States Department of Agriculture are subject to quarantine for a brucellosis test at owner's expense no less than 30 days nor more than 90 days from the date of importation. ~~The Secretary and Executive Officer shall make a determination each year based on the herd infection rates for each of the states for the fiscal year preceding. Based on the herd infection rates for each of the states, the Secretary and Executive Officer shall make a determination in accordance with criteria established by the Board.~~

(Language in first sentence which was stricken was stricken by amendments at the hearing; underlined words were proposed at hearing; second to last sentence was stricken by proposed amendment; last sentence was proposed in original changes and stricken at hearing.)

The rules of the Attorney General, AttyGen 304, provide that:

> If a change is made which goes either to another subject matter or results in a rule fundamentally different from that contained in the Notice of Hearing, a further hearing must be held, at least on the rules insofar as they relate to another subject matter or are fundamentally different from the Notice of Hearing.

The Notice of Hearing states the purpose of the hearing was:

> To amend rules related to the following:
>
> --Section (i), Subsection (3)

--Change from a fiscal year basis to a more frequent determination of herd infection rates of States of origin to determine the need for a brucellosis retest of imported cattle.

--To clarify the responsibility of the Board with respect to which of the States will be included in the retest requirement.

This description contained in the notice fully describes the changes which were made both in the proposed rules and at the hearing. Both changes amend Section (i), Subsection (3); both changes permit more frequent determination of herd infection rates in each state, to allow the Livestock Sanitary Board to use the most current data put out by the Department of Agriculture; both also clarify the responsibility of the Board as to which states' cattle will be subject to quarantine. Indeed, the change at the hearing goes beyond the original proposal in clarifying the infection rate which has always been used as a guideline by the Livestock Sanitary Board, five herds per thousand. Therefore, I believe that the change to the originally proposed amendments which was proposed at the hearing neither goes to another subject matter nor "results in rule fundamentally different from that contained in the Notice of Hearing...".

Another question was raised as to whether the failure of the notice to state the room in which the hearing was to be held would make it deficient. Since the notice specified that the hearing would be at the Veterans Service Building and there was a sign which indicated the hearing room number which was prominently posted by the elevators, I do not think that anyone could have missed the hearing or have been misled by the notice because of that deficiency. Thus, I believe that the notice was satisfactory.

PAS:jyp