

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

I, Dr. J. G. Flint, do hereby certify that I am 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 13th day of January, 1978; 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present voted for the resolution); that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.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 3 MCAR Section 2.002, Importation of Dogs, be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes 1976, Section 35.03 and that Dr. R. L. Mersch, 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 subscribe my name this 18 day of January, 1978.

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

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE LIVESTOCK SANITARY BOARD

IN THE MATTER OF PROPOSED AMENDMENT)
TO RULES RELATING TO LSB-2, IMPORTA-)
TION OF DOGS AND LSB-40, EXHIBITION)
OF LIVESTOCK AND POULTRY IN MINNESOTA.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on December 5, 1977, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Livestock Sanitary Board on December 30, 1977; and

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

WHEREAS, the Livestock Saniary Board has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Livestock Sanitary Board has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

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 and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 26th day
of January, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

RECEIVED
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OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE LIVESTOCK SANITARY BOARD

In the Matter of Proposed Amendment)
to Rules Relating to LSB-2, Importa-)
tion of Dogs and LSB-40, Exhibition) REPORT OF HEARING EXAMINER
of Livestock and Poultry in Minnesota.)

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 Monday, December 5, 1977 in the Veterans Service Building, Saint Paul, Minnesota.

Peder Hong, Special Assistant Attorney General, 515 Department of Transportation Building, appeared as counsel on behalf of the Livestock Sanitary Board. Dr. George Keller, D.V.M., and Dr. Robert Pyle, D.V.M., Room 300, 555 Wabasha Street, Saint Paul, Minnesota 55102, testified in support of the rules on behalf of the Board. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Board shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Board on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Livestock Sanitary Board shall be responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the

Examiner makes the following:

FINDINGS OF FACT

1. On October 4, 1977 the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On October 31, 1977 a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 930.

3. On October 28, 1977 the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On November 7, 1977 the Board filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statement of Need; and
(g) The Statement of Evidence, including the names of witnesses to be called;
(h) The names of Board personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through December 16, 1977 for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 35.03 (1976).

7. Proposed new LSB 2, 3 MCAR § 2.002, Importation of Dogs, allows certain dogs to be imported into the state without a health certificate and specifies the content of the health certificate for all other dogs. The proposed new rule is necessary to replace obsolete language in the present rule and provide exceptions to the health certificate requirement.

8. The proposed amendments to LSB 40, 3 MCAR 2.040, Exhibition of livestock and poultry in Minnesota, mandates that all exhibition swine, except those entered in slaughter classes, be tested negative for pseudorabies within 30 days prior to the opening day of the exhibition. The amendments are necessary to prevent the spread of pseudorabies among swine consigned to public exhibition.

Based upon the foregoing Findings of Fact, the Examiner makes the following:

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Livestock Sanitary Board. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1976) it is the duty of the Hearing Examiner to: "...(4) make a report on each proposed agency action...taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Examiner concludes that the Livestock Sanitary Board has documented its statutory authority to promulgate the proposed rules and that the need for an reasonableness of the proposed rules have been demonstrated by an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Examiner makes the following:

RECOMMENDATION

That the Livestock Sanitary Board adopt the rules as proposed.

Dated this 30 day of December, 1977.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

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, 3 MCAR § 2.002, Importation of Dogs.

FINDING OF FACT

The above-entitled matter came on for hearing before Peter C. Erickson, Hearing Examiner, at 10:00 a.m. on Monday, December 5, 1977, in Conference Room A, Veterans Service Building, St. Paul, Minnesota, after proper notice required by M.S. 1976, Section 15.0412, Subdivision 4, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose. Notice of the Hearing was published in Volume II, Number 17, Page 930, dated October 31, 1977, State Register, State of Minnesota.

After affording interested persons an opportunity to present written and oral data, statements and arguments and having heard and considered all of the testimony and evidence presented and upon the records, files, and proceedings herein, I find the following:

1. Authority to promulgate and amend the above-captioned Rule is contained in M.S. 1976, Section 35.03. That section directs the State Livestock Sanitary Board to protect the health of the domestic animals of the State by such means as it deems expedient to that end, including the adoption of Rules. These Rules are found to come within that authority and are found to be necessary and reasonable.

2. Amendment of this Rule will make it possible to use the latest scientific information regarding the duration of effective immunity for recently developed anti-rabies vaccines. The amendment removes an inequity created by older terminology for vaccines.

(MORE)

3. The amendment lowers age for vaccination from six months to three months of age and provides exceptions for performing dogs, dogs for exhibition, dogs for research and educational institutions, and dogs entering the State for treatment, diagnosis and surgery.

4. This amendment is in the best interest of the people of the State of Minnesota and will not cause economic hardship to dog owners and will not lessen effectiveness of disease control.

5. The Hearing Examiner has concluded that the need for and reasonableness of this amendment has been demonstrated by an affirmative presentation of fact and that all substantive and procedural requirements of Statute have been met.

6. The Rule was adopted by a majority vote at the regular quarterly meeting of the Minnesota State Livestock Sanitary Board held Friday, January 13, 1978.

Dated Jan. 19, 1978

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 Mater of the Proposed Amendment
to Rules of the State Livestock Sanitary
Board, Governing 3 MCAR § 2.002 Importation
of Dogs.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the Minnesota Office of Hearing Examiners at 10:00 A.M. on Monday, December 5, 1977 in Conference Room D, Veterans Service Building, St. Paul, Minnesota, after proper notice required by M. S. Section 15.0412 (1976) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and was published in the State Register.

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 3 MCAR § 2.002, Importation of Dogs, as presented to the Minnesota Livestock Sanitary Board for consideration, are adopted this 13th day of January, 1978 pursuant to authority vested in me by the Livestock Sanitary Board.

STATE OF MINNESOTA
LIVESTOCK SANITARY BOARD

R. L. Mersch, D.V.M.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER C. ERICKSON
HEARING EXAMINER

In the Matter of the Proposed Amendments to
Rules of the State Livestock Sanitary Board,
Relating to 3 MCAR § 2.002, Importation of Dogs.

STATEMENT OF NEED

The above captioned Rule was last amended in December 1960.

1. The Rule needs to be restructured to align it with present Rule format.

2. There is need to remove reference to "killed vaccine" and "live virus" vaccine because these terms are no longer applicable.

3. There is need to adopt new minimum times of vaccination for rabies to coincide with the latest duration of immunity according to the latest research and to allow use of newly developed vaccines.

4. There is need to allow certain exceptions to the requirement of a health certificate.

5. There is need to change the designation of person responsible for forwarding an approved copy of the health certificate.

Based on the foregoing information it is my opinion this Rule amendment should be promulgated.

October 21, 1977

J. G. Flint

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

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OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendment to Rules of the State Livestock Sanitary Board, Governing LSB-2, Importation of Dogs; LSB-40, Public Exhibition of Livestock and Poultry.

AFFIDAVIT OF MAILING

L.T. Christensen, being first duly sworn, deposes and says:

That on the 28th day of October, 1977, 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, or by inter-office mail or directly to the addressee 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.

L.T. Christensen

Subscribed and sworn to before me
the 28th day of October, 1977,

Marian S. Comford

MARIAN S. COMFORD
Notary Public, Ramsey County, Minnesota
My Commission Expires July 25, 1979

RECEIVED
JAN 25 1978
OFFICE OF HEARING
EXAMINERS

AFFIDAVIT

L. T. Christensen, D.V.M., being duly sworn on oath deposes and says:

1) That he is an employee of the Livestock Sanitary Board of the State of Minnesota.

2) That on the 20th day of October, 1977 he called the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412 (1976).

3) That on the 26th day of October, 1977, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

L. T. Christensen

Subscribed and sworn to before me
this 26 day of October, 1977

Marian S Comford

MARIAN S. COMFORD
Notary Public, Ramsey County, Minnesota
My Commission Expires July 25, 1979

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendment to Rules of the State Livestock Sanitary Board, Governing LSB-2, Importation of Dogs; LSB-40, Public Exhibition of Livestock and Poultry.

CERTIFICATE

I hereby certify that the enclosed 4 SHEETS - 487 labels with the list for the Livestock Sanitary Board constitute the complete list of persons, associations, and other interested groups who as of 10 o'clock, A.M., this 26th day of October, 1977, have requested pursuant to M.S. 1976, 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 subject captioned above.

Secretary of State

Joan Anderson Growe

By Cheri L. Mattson

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PETER C. ERICKSON
HEARING EXAMINER

In the Matter of Proposed Amendment to Rules Relating to LSB-2, Importation of Dogs and LSB-40, Exhibition of Livestock and Poultry in Minnesota.

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, Subdivision 4 (1976), in Conference Room D, Veterans Service Building, 20 West 12th Street or Columbus Avenue, Monday, December 5, 1977 commencing at 10:00 A.M., and continuing until all interested or affected persons have had an opportunity to be heard.

Relevant statements or written material may be submitted for the record at the hearing or to Peter C. Erickson, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, phone 612-296-8118 before the hearing or within 5 working days after the close of the hearing.

Statutory authority to promulgate the proposed rules is vested in the Livestock Sanitary Board by Minn. Stat. § 35.03 (1976).

The LSB proposes to amend LSB 2 to allow certain dogs to be imported without a health certificate and in some circumstances without rabies vaccination. To adopt duration of immunity intervals for vaccines which, because of improvement of the vaccines, will be for longer intervals.

The LSB proposes to amend LSB 40 to require that all swine, except those entered in slaughter classes, be tested negative for pseudorabies within 30 days prior to the opening day of the exhibition.

Free copies of the proposed rules are available and can be obtained from the Minnesota Livestock Sanitary Board, 555 Wabasha, St. Paul, Minnesota 55102. Additional copies will be available at the hearing.

A "statement of need" explaining why the Board feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will introduce will be filed with the Hearing Examiner at least 25 days prior to the hearing and will be available for public inspection.

Please be advised that Minnesota Statute Chapter 10A requires each lobbyist to register with the Ethical Practices Board within 5 days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board 41 State Office Building, St. Paul, Minnesota 55155, phone 612-296-5615.

STATE OF MINNESOTA
LIVESTOCK SANITARY BOARD

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

Dated this 14th day of October, 1977

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 LSB-2, Importation of Dogs.

ORDER OF HEARING

To effectively implement and make more specific the Livestock Sanitary Board deems it necessary to consider amending the above-captioned rule pursuant to the authority vested in it by Minn. Stat. 1976, Sec. 35.03.

NOW, THEREFORE, IT IS ORDERED this 14th day of October, 1977, that a public hearing on the proposed amendment to the above-captioned rules be held in Room D, Veterans Service Building, State of Minnesota, St. Paul, Minnesota, on Monday the 5th day of December, 1977, 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 and be published in the State Register.

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

CERTIFICATE

OF

BOARD'S AUTHORIZING RESOLUTION

I, J. G. Flint, do hereby certify that I am 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 14th day of October, 1977, 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 Dr. J. G. Flint, 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 Rule LSB 2, Importation of Dogs, as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order of hearing and notice of hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of October, 1977.

J. G. Flint

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

RULES AND REGULATIONS

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Peder Hong, 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.

Peder Hong

Special Assistant Attorney General

Dated: 1-30-78

3 MCAR § 2.002 Importation of Dogs.

A. All dogs imported into Minnesota shall be accompanied by a health certificate issued by an accredited veterinarian except:

1. Performing dogs in professional animal acts.

2. Dogs for exhibition which are covered by Rule 3 MCAR § 2.040.

3. Dogs for research at educational and scientific institutions.

4. Dogs entering a veterinary facility for treatment, surgery, or diagnostic procedures.

B. Health certificates shall:

1. Certify that the dog or dogs have been inspected and are free of visible signs of infectious, contagious, or communicable disease.

2. Certify that all dogs 3 months of age and over have been vaccinated and/or revaccinated against rabies with a USDA licensed rabies vaccine according to the package insert directions. Manufacturer's name, product name, vaccine serial number and date of vaccination or revaccination to be entered on the health certificate.

3. A copy shall be forwarded to the Minnesota Livestock Sanitary Board by the approving agency of the state of origin.

APPROVED AS TO FORM AND LEGALITY
MAR 6 1978 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 6 - 1978
Joan Anderson Growe
Secretary of State
1:15 pm