

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 Rev. 1 78
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Dr. R. L. Mersch, President
Board of Animal Health

DATE: 2/13/81

ATTN: Jon K. Murphy
Special Assistant Attorney General

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 6-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing 3 MCAR § 2.044, the establishment and operation of public stockyards.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

cc: Duane Harves, Chief Hearing Examiner
Susan Robertson, LCRAR

JSA/gy

Enc.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO JERRY ANDERSON
Special Assistant
Attorney General
G25 Administration Building

DATE: January 23, 1981

FROM JON K. MUPRHY
Special Assistant
Attorney General

PHONE: 6-0415

SUBJECT: 3 MCAR § 2.044 and 3 MCAR § 2.066

Enclosed for review please find documents for the above rules. Should you have any questions, please advise.

JKM/dw

Enclosure

RECEIVED
JAN 26 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File No. 670

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1/26
DATE FOR REVIEW 2/5
DATE DUE 2/17

Adopted w/a hearing X
Adopted w/o a hearing
Temporary rule

Approved 2/11/81 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 2/12/81

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
12.4.80 Date of Hearing

✓ Certificates of Board's Authorizing Resolution, 2.044, LSB 66

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice of rulemaking note reference to interoffice mail
11.3.81 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate (predates mailing by 4 days).

✓ Publication in State Register in record also see HE 2
11.3.81 At least 30/~~20~~ days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
Approving agency action

✓ Agency's Findings of Fact - 2.044 and 2.066

N/A LCRAR Report or agency Affidavit

✓ Certificates of Board's Resolution Adopting Rules, 2044 and 2.066

N/A Order Approving Incorporation by Reference

✓ Statements of Need and Reasonableness 2.044 and 2.066

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

Affidavit of Mailing Notice of Submission to Attorney General
not submitted

Notice of Submission to the Attorney General
not submitted.

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing 3 MCAR § 2.044 The establishment and operation of public stockyards.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 4th day of December, 1980, at 9:30 A.M. in the Conference Room A, Capitol Square Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the State Board of Animal Health for that purpose.

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

NOW, THEREFORE, IT IS ORDERED that these rules identified as 3 MCAR § 2.044 The establishment and operation of public stockyards, are adopted this 16th day of January, 1981, pursuant to authority vested in me by Minnesota Statutes § 35.03.

STATE OF MINNESOTA

Dr. R. L. Mersch
President of the Board of Animal Health

Adopted - AG copy

3 MCAR § 2.044 The establishment and operation of public stockyards.

A. Definitions.

1. "Board" shall mean the State of Minnesota Board of Animal Health or its authorized agents.

2. "Public stockyards" means an assembly point for livestock operated as a public market for livestock producers, feeders, market agencies and buyers; having facilities and providing services for those individuals or organizations who have been granted the privileges of the market by the management of the stockyards.

3. "Shipper contract" shall mean a record indicating:

a. Consignor's name and address.

b. Identification and description of the livestock consigned.

c. Date and time received.

d. Name of the trucker or transportation agency.

e. Name of the individual or firm who will represent the seller.

f. Signature of the seller or his agent.

4. "Veterinary services contractor" shall mean an accredited veterinarian or more than one veterinarian selected by the management and approved by the board to perform necessary services in connection with the rules of the board.

B. Permit to operate.

1. A permit to operate expiring June 30 following the issue date shall be issued provided:

a. A veterinarian or veterinarians acceptable to the board has been retained by the stockyards management to act as the veterinary services contractor.

b. An inspection by representatives of the board indicates compliance with the sanitation and general requirements of this rule.

c. The management of the stockyards shall furnish a list of all persons and firms granted the privilege of the market.

2. Revocation of permit.

a. The secretary and executive officer may suspend the permit for just cause for a period of not more than thirty (30) days pending a hearing before the board to show cause why the permit should not be revoked.

C. General requirements.

1. All pens, yards, alleys and livestock holding areas shall be constructed so that they may be maintained in good repair and in a sanitary condition.

2. The veterinary services contractor shall be provided adequate space and facilities to perform his duties.

3. Separate isolation pens shall be provided for yarding reactors, suspects and exposed livestock.

4. Facilities shall be provided by the management for adequately cleaning and disinfecting trucks and other vehicles at a reasonable cost to the transportation agency.

5. Agents of the board shall be allowed entry for inspection purposes upon demand at any reasonable time.

6. The management shall maintain and cause to be maintained records of all livestock transactions for a period of one year. Such records shall be available for inspection on demand at reasonable times by agents of the board.

7. The management shall lock and seal pens or sections of the stockyard upon demand when agents of the board detect or suspect contagious or communicable disease exists in such pens and sections of the stockyards. Such pens shall be cleaned and disinfected under board supervision before being used again.

8. Upon disclosure of brucellosis reactors all cattle in the consignment shall be considered exposed and must be sold for immediate slaughter or returned to the farm of origin under quarantine. If sold for immediate slaughter a shipping permit shall be issued and each exposed animal shall be permanently branded

with the letter "S" on the left jaw. Cattle that have been in contact with such a consignment 24 hours or more shall be considered exposed cattle and shall be handled in the same manner. Commencing January 1, 1982, any cattle in contact with a reactor shall be considered exposed.

9. All movements into and out of the public stockyards shall be in compliance with applicable federal interstate regulations and the laws of the State of Minnesota and rules of the board.

D. Entry of livestock.

1. All livestock shall enter with a properly completed shipper contract.

2. Livestock under quarantine because of disease shall be allowed entry when properly identified and accompanied by a shipping permit issued by a veterinarian or notice of shipment prepared by the owner.

3. All reactors, suspects, and exposed livestock shall enter the stockyards through separate entryway and be yarded in the isolation area. The shipper contract shall be clearly marked with the appropriate word or words indicating such livestock.

4. Cows and bulls two years of age and over shall be identified to the herd of origin by an official backtag as required in rule 3 MCAR § 2.066 HE7 Slaughter Cattle and Slaughter Swine Identification, prior to being offered for sale.

E. Removal of livestock.

1. No livestock shall be removed from the premises until released by the veterinary services contractor or his representative.

2. Cattle.

a. Cattle removed for purposes other than slaughter must be accompanied by a health certificate meeting Minnesota importation requirements if they originate from other states or Minnesota sale requirements if they originate from Minnesota or state of destination requirements if exported.

b. These cattle shall be tested for tuberculosis except:

(1) Cattle originating in Minnesota.

(2) Cattle from states having a reciprocity agreement with Minnesota deleting test requirement.

(3) Female feeding cattle of beef type and breed under 18 months of age leaving the public stockyard on permit.

(4) Steers, spayed heifers, and cattle under 6 months of age.

c. Brucellosis test requirements for these cattle.

(1) The requirements for transfer of ownership for cattle, as embodied in 3 MCAR § 2.011 Eradication of Bovine and Bison Brucellosis, shall apply to all cattle removed from the public stockyards to Minnesota destinations.

(2) The diagnosis of cattle which respond to the brucellosis test shall be in accordance with 3 MCAR § 2.011.

d. Anaplasmosis test requirements for breeding cattle.

1. Breeding cattle originating in states other than Minnesota shall be tested in accordance with 3 MCAR § 2.001.

e. Cows and bulls two years of age and over not offered for sale shall be backtagged or tested and found negative to brucellosis and if originating from other states negative to anaplasmosis and tuberculosis before removal from the stockyards.

3. Swine.

a. Swine sold for slaughter shall be identified to the herd of origin as required in 3 MCAR § 2.066 Slaughter Cattle and Slaughter Swine Identification.

b. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:

(1) Eartag number.

(2) Negative brucellosis buffered antigen (BBA) test for sows and boars six months of age and over.

(3) Any other requirements of a state of destination.

c. Pseudorabies test requirements for breeding swine.

(1) Breeding swine six months of age and over originating in states other than Minnesota shall be tested for pseudorabies in accordance with 3 MCAR § 2.005 before removal to any Minnesota destination.

d. All swine for breeding and further feeding removed from public stockyards to points in Minnesota shall be quarantined for 30 days.

4. Sheep, goats, horses, mules and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.

APPROVED AS TO FORM AND LEGALITY

2-11 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 12 1981
Joan Anderson Growe
Secretary of State

10:00 a.m.

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing 3 MCAR § 2.066 Slaughter cattle and slaughter swine identification.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 4th day of December, 1980, at 9:30 A.M. in the Conference Room A, Capitol Square Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the State Board of Animal Health for that purpose.

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

NOW, THEREFORE, IT IS ORDERED that these rules identified as 3 MCAR § 2.066 Slaughter cattle and slaughter swine identification, are adopted this 16th day of January, 1981, pursuant to authority vested in me by Minnesota Statutes § 35.03.

STATE OF MINNESOTA

Dr. R. L. Mersch
President of the Board of Animal Health

Adopted - AG copy

3MCAR § 2.066 Slaughter cattle and slaughter swine identification.

A. Slaughter cattle identification.

1. It shall be the duty of every livestock trucker, livestock dealer, livestock market operator, and slaughtering establishment subject to or maintaining meat inspection, to identify upon receipt unless previously identified by backtag, all bovine breeding animals two years of age and over originating from herds in this state and received for sale or shipment to a slaughtering establishment.

2. Such identification unless otherwise authorized by the Board of Animal Health shall consist of an official backtag issued by the Board of Animal Health, or Veterinary Services, APHIS, USDA, and shall be affixed to such animals at a point approximately four (4) inches behind the shoulder and four (4) inches below the top line.

3. Every person required to identify animals in accordance with this rule shall file reports on forms prescribed by the board, including thereon the backtag number and date of application; the name, address and county of residence of the person who owned or controlled the herd from which such animals originated; and whether the animal was of beef or dairy type.

a. When ever animals are identified a report shall be filed with the board at the end of each fourteen day period covering all animals identified during such a period.

4. This requirement shall not apply to livestock truckers with respect to animals delivered directly to a livestock market agreeing to accept responsibility for backtag identification, if at the time of delivery the market is furnished with information identifying the herd of origin.

B. Slaughter swine identification.

1. It shall be the legal obligation of each agent transporting sows, boars and stags from a producer to a livestock dealer, livestock market, stockyards, commission company, other concentration point or slaughter establishment subject to or maintaining meat inspection to supply the receiving agent or agency with the name and address of the producer so the sows, boars and stags can be identified to the herd of origin.

2. It shall be the legal obligation of the agent or agency--livestock dealer, livestock market operator, stockyard operator, commission company, buying station, operator of any concentration point at which the herd of origin of individual sows, boars and stags would be lost or slaughtering establishment subject to or maintaining meat inspection--receiving sows, boars and stags from a transporting agent to identify the sows, boars and stags, unless so previously identified, with a tattoo or other identification authorized by the board. Failure of the first agent or agency receiving the sows, boars and stags to properly identify the sows, boars and stags does not relieve other agents and agencies receiving the sows, boars and stags from the responsibilities of identification of the sows, boars and stags to the herd of origin.

a. Tattoos or other identification shall be applied as directed by the board, using a code approved by the board which will identify the herd of origin of the sows, boars and stags.

b. Every agent or agency identifying sows, boars and stags shall maintain a record of the identification used, date of application, name and address of the producer of all sows, boars and stags identified

APPROVED AS TO FORM AND LEGALITY

2-11 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 12 1981
Joan Anderson Growe
Secretary of State

10:00 a.m.

BAH-81-002-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments to Rules 3 MCAR § 2.044 The establishment and operation of public stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Administrative Hearings at 9:30 a.m. on Thursday, December 4, 1980 in conference room A of the Capitol Square Building, St. Paul, Minnesota.

Jon K. Murphy, Special Assistant Attorney General, appeared on behalf of the Board of Animal Health. Doctors of Veterinary Medicine, L. T. Christensen, George E. Keller and Robert G. Pyle appeared and testified in support of the proposed rules on behalf of the Board. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4e (Minn. Laws 1980, Ch. 615, §§ 6 and 7), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Board of Animal Health shall, if it proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Board makes changes in the rule other than those recommended herein, it shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

On September 23, 1980, the Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On November 3, a Notice of Hearing and a copy of the proposed rules were published at 5 State Register 691.

3. On November 3, 1980, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Board of Animal Health for the purpose of receiving such notice.

4. On November 17, 1980, the Board filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.

(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Board personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.

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

5. The record remained open through December 15, 1980 for the receipt of written comments and statements.

6. Statutory authority to adopt the proposed rules is contained in Minn. Stat. § 35.03 (1978).

7. The Board has proposed several minor amendments to 3 MCAR § 2.044, The Establishment and Operation of Public Stockyards. It supported those amendments as follows:

> The need to amend these rules arises because of requests from management and firms doing business at the South St. Paul Stockyards for relief from the present backtag requirement prior to removal of cattle from the Stockyards. The point at which backtags are required to be applied will be shifted to the point of original sale thereby facilitating more accurate determination of the herd of origin.
>
> The statement regarding exposure to brucellosis is changed to reflect the fact that exposure of less than 24 hours may spread brucellosis. The change will become effective in January, 1982 which will be the same as other Board rules and the requirement for removal of swine within 72 hours is deleted because present requirements for test of breeding swine is in conflict. The pseudorabies test cannot be completed within the time allotted presently.
>
> Provision is made for receiving quarantined livestock without a shipping permit on a statement signed by the owner as provided in pseudorabies and garbage feeding rules.
>
> Reference to drylot feeding premises needs to be removed because recent changes in federal interstate rules prevent movement to drylots without added requirements not presently available in Minnesota.
>
> Anaplasmosis test requirements have to be added because laws of 1980, Chapter 467, Section 35, require negative anaplasmosis test on all breeding cattle imported into Minnesota.
>
> The rule needs to be changed to require a negative pseudorabies test for breeding swine originating from out of state as required by 3 MCAR § 2.005.
>
> A change is made in the swine quarantine period from lifetime to 30 days as in 3 MCAR §§ 2.005, 2.041 and 2.042.
>
> The foregoing amendments will not decrease the effectiveness of the rule nor impair animal disease control and is within the authority of § 35.03 (1978).

At hearing, the Board proposed to additionally amend § 2.044 D.4. and E.3.a. by changing references to "LSB 66" to 3 MCAR § 2.066.

a. Scott Norton, Quality Control Supervisor for Iowa Pork Industries, Inc., testified that deletion of the requirement that swine intended for further feeding or breeding must leave the stockyard within 72 hours of arrival may cause pale-soft-exudative (PSE) meat, a problem faced by meat packers. However, this comment was more in the form of a question and no correlation between deletion of the requirement and PSE could be shown.

b. The Hearing Examiner finds the proposed rule, as amended above, to be both needed and reasonable.

8. The Board has proposed to amend 3 MCAR § 2.066, Slaughter Cattle and Slaughter Swine Identification, (old LSB 66) by eliminating the requirement that all slaughter swine be identified with a tattoo showing the herd of origin. Instead, only sows, boars and stags will be required to be identified. This issue, whether or not all slaughter swine should be identified, has been one of continual controversy between the swine marketers and the meat-packing industry. The Board supported the amended rule as follows:

> The need to propose these amended rules arises because many of the marketing agencies of the pork industry oppose the present rule which requires the identification by tattoo of all swine received for slaughter; and a delegation of market people met with the Board of Animal Health and requested that the rule be changed to require the identification by tattoo of only sows, boars, and stags.
>
> In LSB 66, Slaughter Cattle and Slaughter Swine Identification, complete identification means the identification by tattoo to the farm of origin of all butcher swine, sows, boars, and stags received for slaughter. Identification of sows, boars and stags only would mean the identification by tattoo to the farm of origin of only sows, boars, and stags received for slaughter.
>
> Identification of sows, boards, and stags is needed for the brucellosis eradication program. Sows, boars, and stags are tested for brucellosis at the time of slaugher and those swine suspicious to the test are traced to farm of origin by the tattoo. The breeding swine on the farm are then tested to determine if the infection exists in the herd. This is an essential feature of the swine brucellosis eradication program. Complete identification of all slaughter swine is not needed for the brucellosis eradication program.
>
> The Board of Animal Health adopted a rule for the eradication of swine brucellosis in August, 1973. The Board also adopted a rule for swine identification in August, 1973 as the identification of sows, boars, and stags was needed for the swine brucellosis eradication program, however, upon recommendation of the Governor's Advisory Committee on Swine Disease Prevention and as a result of the hearing held June 21, 1973, the rule adopted required identification of all slaughter swine.
>
> The June 21, 1973 hearing was well attended by all segments of the pork industry. The market people opposed the proposed rule as they favored the identification of sows, boars, and stags only. People from other segments of the industry supported the proposed rule as they favored complete identification. As previously stated, the Board adopted a rule for complete identification.
>
> Due to continued opposition to complete identification by marketing agencies, the Board proposed to amend LSB 66, Slaughter Cattle and Slaughter Swine Identification, to require the identification of only sows, boars, and stags and a public hearing was held June 12, 1975. The market people again testified for only sow, boar, and stag identification and people from other segments of the industry again testified for complete identification. The proposed changes were not adopted and complete identification remained mandatory.
>
> A delegation of market people met with the board on July 11, 1980 and again requested a change in the rule to require the identification of sows, boars, and stags only. At the October 17, 1980 meeting, the Board authorized another public hearing on the rule.
>
> Complete identification has been mandatory by state rule for nearly eight years. The public hearing on the proposed amended

rule will determine if, today, the pork industry wants complete slaughter swine identification or identification of only slaughter sows, boars, and stags. The proposed amendments will not jeopardize the swine brucellosis eradication program. Although complete identification is ideal, there exists some question if the value received justifies the labor required of the market people and costs to the pork prodaucer. To allow input from the industry as a whole, the Board has authorized the hearing on the amended rules.

Additionally, the Board proposed a clericasl amendment to § 2.066 C. which reads:

> Each agent or agency failing to comply with the provisions of this ~~regulation~~ rule is in violation of ~~the regulation and the penalties invoked as provided in Minn. Stat. Ch. 35, § 35.70 (1978)~~ Minn. Stat. § 35.70.

P.3

a. Representatives from Geo. A. Hormel and Co. and Iowa Pork Industries, Inc. commented in opposition to the proposed amendment stating that complete identification is necessary to trace back diseased or unfit swine for the purposes of eradication and charge-backs to the producer. Dr. Michael M. Pullen, D.V.M., commented that complete identificatin is useful for disease eradication, trace-back for residues and pollutants, and for research activities.

b. Many comments were submitted by swine producers and marketers which stated that: (a) presently, Wisconsin is the only other state which requires slaughter swine identification and it is now proposing to cut back identification to only boars, sows and stags; (b) there is currently no disease eradication program for slaughter swine in Minnesota so identification is of questionable value; (c) the tattooing procedure cripples and bruises many hogs; (d) the tattooing is so badly done that the percentage of successful trace-backs is small; and (e) movement of the hogs for tattooing results in shrinkage.

c. The Hearing Examaminer finds that the need for and reasonableness of the proposed amendment to 3 MCAR § 2.066 have been demonstrated. The absence of a health program for slaughter swine, the ineffectiveness of tattooing, and the potential damage to the hogs outweigh the benefits of complete identification.

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

CONCLUSIONS

1. That due, timely and legally audequate notice of the hearing in this matter was properly served and published by the Board of Animal Health.

2. That the Board has met the procedural requirements of Minn. Laws 1980, Ch. 615, § 6, subds. 4-4f (to be codified as Minn. Stat. § 15.0412, subds. 4-4f), and all other procedural requirements of law or rule. The Examiner points out that the documents required to be submitted pursuant to 9 MCAR § 2.105 were not submitted 25 days prior to the hearing. However, no prejudice was shown or claimed because of the late filing.

3. That the Board has demonstrated its statutory authority to adopt the proposed amendments within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4c (to be codified as Minn. Stat. § 15.0412, subd. 4c); Minn. Stat. § 15.0412, subd. 1 (1978), and has met all other substantive requirements of law.

4. That the board has demonstrated the need for and reasonableness of the proposed rule amendments by an affirmative presentation of facts in the record within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4c (to be codified as Minn. Stat. § 15.0421, subd. 4c).

5. That the additions to the proposed rule amendments which were proposed after publication of the rules in the State Register are not substantially different from the rules as published in the State Register within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4d (to be codified as Minn. Stat. § 15.0412, subd. 4d).

6. That any Findings which might properly be termed Conclusions, and any Conclusions which might properly be termed Findings are hereby adopted as such.

R E C O M M E N D A T I O N

IT IS HEREBY RECOMMENDED that the proposed rule amendments be adopted consistent with the Findings and Conclusions made above.

Dated this 30 day of December, 1980.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

Amendments as Proposed

3 MCAR § 2.066 ~~LSB-66.~~ Slaughter cattle and slaughter swine identification.

A. ~~(a)~~ Slaughter cattle identification.

1. ~~(1)~~ It shall be the duty of every livestock trucker, livestock dealer, livestock market operator, and slaughtering establishment subject to or maintaining meat inspection, to identify upon receipt unless previously identified by backtag, all bovine breeding animals two years of age and over originating from herds in this state and received for sale or shipment to a slaughtering establishment.

2. ~~(2)~~ Such identification unless otherwise authorized by the ~~Livestock Sanitary~~ Board of Animal Health shall consist of an official backtag issued by the ~~Livestock Sanitary~~ Board of Animal Health, or Veterinary Services, APHIS, USDA, and shall be affixed to such animals at a point approximately four (4) inches behind the shoulder and four (4) inches below the top line.

3. ~~(3)~~ Every person required to identify animals in accordance with this rule ~~regulation~~ shall file reports on forms prescribed by the board, including thereon the backtag number and date of application; the name, address and county of residence of the person who owned or controlled the herd from which such animals originated; and whether the animal was of beef or dairy type.

a. ~~(aa)~~ When ever animals are identified a report shall be filed with the board at the end of each fourteen day period covering all animals identified during such a period.

4. ~~(4)~~ This requirement shall not apply to livestock truckers with respect to animals delivered ~~received for delivery~~ directly to a livestock market agreeing to accept responsibility for backtag identification, if at the time of delivery the market is furnished with information identifying the herd of origin.

B. ~~(b)~~ Slaughter swine identification.

1. ~~(1)~~ It shall be the legal obligation of each agent transporting sows, boars and stags ~~slaughter swine~~ from a producer to a livestock dealer, livestock market, stockyards, commission company, other concentration point or slaughter establishment subject to or maintaining meat inspection to supply the receiving agent or agency with the name and address of the producer so the sows, boars and stags ~~swine~~ can be identified to the herd of origin.

2. ~~(2)~~ It shall be the legal obligation of the agent or agency—livestock dealer, livestock market operator, stockyard operator, commission company, buying station, operator of any concentration point at which the herd of origin of individual sows, boars and stags ~~swine~~ would be lost or slaughtering establishment subject to or maintaining meat inspection—receiving sows, boars and stags ~~slaughter swine~~ from a transporting agent to identify the sows, boars and stags ~~slaughter swine~~, unless so previously identified, with a tattoo or other identification authorized by the board. Failure of the first agent or agency receiving the sows, boars and stags ~~slaughter swine~~ to properly identify the sows, boars and stags ~~slaughter swine~~ does not relieve other agents and agencies receiving the sows, boars and stags ~~slaughter swine~~ from the responsibilities of identification of the sows, boars and stags ~~slaughter swine~~ to the herd of origin.

a. ~~(aa)~~ Tattoos or other identification shall be applied as directed by the board, using a code approved by the board which will identify the herd of origin of the sows, boars and stags ~~slaughter swine~~.

b. ~~(bb)~~ Every agent or agency identifying sows, boars and stags ~~slaughter swine~~ shall maintain a record of the identification used, date of application, name and address of the producer of all sows, boars and stags ~~swine~~ identified for at least 120 days. These records shall be made available to the board at any time.

C. ~~(c)~~ Each agent or agency failing to comply with the provisions of this regulation is in violation of the rule ~~regulation~~ and the penalties invoked as provided in Minn. Stat. ch. 35, § 35.70 (1978). HE 8

KEY: PROPOSED RULES — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Amendments as Proposed

3 MCAR § 2.044 The establishment and operation of public stockyards.

A. Definitions.

1. "Board" shall mean the State of Minnesota ~~Livestock Sanitary~~ Board of Animal Health ~~acting by and through the secretary and executive officer~~ or its authorized agents.

2. "Public stockyards" means an assembly point for livestock operated as a public market for livestock producers, feeders, market agencies and buyers; having facilities and providing services for those individuals or organizations who have been granted the privileges of the market by the management of the stockyards.

3. "Shipper contract" shall mean a record indicating:

a. Consignor's name and address.

b. Identification and description of the livestock consigned.

c. Date and time received.

d. Name of the trucker or transportation agency.

e. Name of the individual or firm who will represent the seller.

f. Signature of the seller or his agent.

4. "Veterinary services contractor" shall mean an accredited veterinarian or more than one veterinarian selected by the management and approved by the board to perform necessary services in connection with the rules of the board.

B. Permit to operate.

1. A permit to operate expiring June 30 following the issue date shall be issued provided:

a. A veterinarian or veterinarians acceptable to the board has been retained by the stockyards management to act as the veterinary services contractor.

b. An inspection by representatives of the board indicates compliance with the sanitation and general requirements of this rule.

c. The management of the stockyards shall furnish a list of all persons and firms granted the privilege of the market.

2. Revocation of permit.

a. The secretary and executive office may suspend the permit for just cause for a period of not more than thirty (30) days pending a hearing before the board to show cause why the permit should not be revoked.

C. General requirements.

1. All pens, yards, alleys and livestock holding areas shall be constructed so that they may be maintained in good repair and in a sanitary condition.

2. The veterinary services contractor shall be provided adequate space and facility to perform his duties.

3. Separate isolation pens shall be provided for yarding reactors, suspects and exposed livestock.

4. Facilities shall be provided by the management for adequately cleaning and disinfecting trucks and other vehicles at a reasonable cost to the transportation agency.

5. Agents of the board shall be allowed entry for inspection purposes upon demand at any reasonable time.

6. The management shall maintain and cause to be maintained records of all livestock transactions for a period of one year. Such records shall be available for inspection on demand at reasonable times by agents of the board.

7. The management shall lock and seal pens or sections of the stockyard upon demand when agents of the board detect or suspect contagious or communicable disease exists in such pens and sections of the stockyards. Such pens shall be cleaned and disinfected under board supervision before being used again.

8. Upon disclosure of brucellosis reactors all cattle in the consignment shall be considered exposed and must be sold for immediate slaughter or returned to the farm of origin under quarantine. If sold for immediate slaughter a shipping permit shall be issued and each exposed animal shall be permanently ~~identified~~ branded with the letter "S" on the left jaw. Cattle that have been in contact with such a consignment 24 hours or more shall be considered exposed cattle and shall be handled in the same manner. Commencing January 1, 1982, any cattle in contact with a reactor shall be considered exposed.

9. All movements into and out of the public stockyards shall be in compliance with applicable federal interstate regulations and the laws of the State of Minnesota and rules of the board.

~~10. Swine leaving the stockyards for further feeding or breeding must leave within 72 hours of arrival in the stockyards.~~

D. Entry of livestock.

1. ~~2.~~ All livestock shall enter with a properly completed shipper contract.

2. ~~1.~~ Livestock under quarantine because of disease shall be allowed entry when properly identified and accompanied by a shipping permit issued by a veterinarian or notice of shipment prepared by the owner.

3. All reactors, suspects, and exposed livestock shall enter the stockyards through separate entryway and be yarded in the isolation area. The shipper contract shall be clearly marked with the appropriate word or words indicating such livestock.

4. Cows and bulls two years of age and over shall be identified to the herd of origin by an official backtag as required in rule LSB 66 Slaughter cattle and slaughter swine identification, prior to being offered for sale.

E. Removal of livestock.

1. No livestock ~~except livestock for immediate slaughter~~ shall be removed from the premises until released by the veterinary services contractor or his representative.

2. Cattle. ~~Cows and bulls two years of age and over for immediate slaughter shall be identified to the herd of origin by~~

~~an official backtag, as required in rule LSB 66 and shall not be released by the veterinary services contractor or his representative unless all animals are identified by official backtag.~~

~~3. Swine sold for slaughter shall be identified to the herd of origin as required in LSB 66 and shall not be released by the veterinary services contractor or his representative unless identified.~~

a. ~~1.~~ Cattle removed for purposes other than slaughter must be accompanied by a health certificate meeting Minnesota importation requirements if they originate from other states or Minnesota sale requirements if they originate from Minnesota or state of destination requirements if exported.

~~5. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:~~

~~a. Eartag number.~~

~~b. Negative brucellosis buffered antigen test for sows and boars six months of age and over.~~

~~c. Any other requirements of a state of destination.~~

~~6. All swine for breeding and further feeding removed from public stockyards or points in Minnesota shall be quarantined until sent to slaughter.~~

~~7. Sheep, goats, horses, mules, and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.~~

~~F. Tuberculosis test requirements for cattle.~~

b. ~~(1)~~ These ~~All~~ cattle shall be tested for tuberculosis except:

~~a. Cattle for immediate slaughter.~~

(1) ~~b.~~ Cattle originating in Minnesota.

(2) ~~c.~~ Cattle from states having ~~tuberculosis~~ a reciprocity agreement with Minnesota deleting test requirement.

(3) ~~d.~~ Female feeding ~~and grazing~~ cattle of beef type and breed under 18 months of age leaving the public stockyard on permit.

(4) ~~e.~~ Steers, spayed heifers, ~~beef~~ and cattle under 8 ~~months of age, and dairy cattle~~ 6 months of age.

~~f. Cattle leaving on permit to approved drylot feeding premises.~~

c. ~~C.~~ Brucellosis test requirements for these cattle ~~and swine~~.

(2) ~~1.~~ The ~~test for and~~ diagnosis of ~~brucellosis responding~~ cattle ~~and swine~~ which respond to the brucellosis test shall be in accordance with ~~LSB 11~~ 3 MCAR § 2.011.

(1) ~~2.~~ The requirements for transfer of ownership for cattle, as embodied in ~~LSB 11~~ 3 MCAR § 2.011 Eradication of bovine and bison brucellosis, ~~in Minnesota,~~ shall apply to all cattle removed from the public stockyards to Minnesota destinations. ~~except that:~~

~~a. Cattle of all classes may be sold to leave the public stockyards to enter a Minnesota approved drylot feeding premises provided:~~

~~(1) A permit is secured.~~

~~(2) The cattle are branded with the letter "F" on the right jaw.~~

~~(3) Individual identification for each animal is listed on the health certificate.~~

d. Anaplasmosis test requirements for breeding cattle.

1. Breeding cattle originating in states other than Minnesota shall be tested in accordance with 3 MCAR § 2.001.

e. Cows and bulls two years of age and over not offered for sale shall be backtagged or tested and found negative to brucellosis and if originating from other states negative to anaplasmosis and tuberculosis before removal from the stockyards.

3. Swine. ~~The requirements for transfer of ownership for removal of breeding swine six months of age and over, except for immediate slaughter, shall be negative brucellosis test.~~

a. ~~3.~~ Swine sold for slaughter shall be identified to the herd of origin as required in LSB 66 Slaughter cattle and slaughter swine identification.

b. Swine removed for breeding or further feeding purposes must be accompanied by a health certificate indicating:

(1) Eartag number.

(2) Negative brucellosis buffered antigen (BBA) test for sows and boars six months of age and over.

(3) Any other requirements of a state of destination.

c. Pseudorabies test requirements for breeding swine.

(1) Breeding swine six months of age and over originating in states other than Minnesota shall be tested for pseudorabies in accordance with 3 MCAR § 2.005 before removal to any Minnesota destination.

d. All swine for breeding and further feeding removed from public stockyards to points in Minnesota shall be quarantined for 30 days.

4. Sheep, goats, horses, mules and other species may be removed when a health certificate certifying compliance with the state of destination requirements have been met.

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the Board of Animal Health, Governing 3 MCAR § 2.044 The establishment and operation of public stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification.

ORDER FOR HEARING

To effectively implement and make more specific the above-captioned rules the Board of Animal Health deems it necessary to consider amending the above-captioned rules pursuant to the authority vested in it by Minn. Stat. § 35.03 (1978).

NOW, THEREFORE, IT IS ORDERED this 17th day of October, 1980, that a public hearing on the proposed amendment of the above-captioned rules be held in Conference Room A, Capital Square Building, 550 Cedar Street, Saint Paul, Minnesota, 55101, on Thursday the 4th day of December, 1980, commencing at 9:30 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 published in the State Register and be given to all representatives of associations or other interested groups or persons who have registered their names with the agency for that purpose.

J. C. Flint, D.V.M.
Secretary and Executive Officer
Board of Animal Health

CERTIFICATE

OF

BOARD'S AUTHORIZING RESOLUTION

I, J. G. Flint, do hereby certify that I am Secretary and Executive Officer of the Board of Animal Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Animal Health duly and properly called and held on the 17th day of October, 1980, 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 Board of Animal Health be and he hereby is granted the authority and directed to call a hearing for the purpose of amending 3 MCAR § 2.044 The establishment and operations of public stockyards, as well as perform any and all acts incidental thereto, signing an order of hearing and notice of hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th day of October, 1980.

J. G. Flint, D.V.M.
Secretary and Executive Officer
Board of Animal Health

CERTIFICATE

OF

BOARD'S AUTHORIZING RESOLUTION

I, J. G. Flint, do hereby certify that I am Secretary and Executive Officer of the Board of Animal Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Animal Health duly and properly called and held on the 17th day of October, 1980, 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 Board of Animal Health be and he hereby is granted the authority and directed to call a hearing for the purpose of amending LSB 66 Slaughter Cattle and Slaughter Swine Identification, as well as perform any and all acts incidental thereto, signing an order of hearing and notice of hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th day of October, 1980.

J. G. Flint, D.V.M.
Secretary and Executive Officer
Board of Animal Health

STATE OF MINNESOTA
BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments to Rules 3 MCAR § 2.044 The establishments and operation of public stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification.

NOTICE OF HEARING

A public hearing concerning the proposed rule amendments will be held in Conference Room A, Capital Square Building, 550 Cedar Street, Saint Paul, Minnesota, on Thursday December 4, 1980 commencing at 9:30 AM. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statement or material may be submitted to Peter Erickson, Hearing Examiner, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, phone 612-296-8118 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. § § 15.0411 - 15.052 and by 9 MCAR §§ 2.101 - 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedures, call or write the hearing examiner.

Notice is hereby given that twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed

rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Amendments to 3 MCAR § 2.044 The establishment and operation of public stockyards will: 1. Provide that after January 1, 1982 any cattle in contact with a brucellosis reactor will be considered to have been exposed to the disease. 2. Delete the requirement that swine leave the stockyards within 72 hours. 3. Require that cows and bulls over two years of age be backtagged before being offered for sale. 4. Delete the exemption granted livestock for immediate slaughter for removal from the stockyards without a release from the veterinary services contractor. 5. Delete the exemption from a tuberculin test for cattle going to approved dry-lot feeding premises. 6. Require that cattle unloaded in the stockyards and not offered for sale be backtagged or properly tested before removal from the yards. 7. Require a pseudorabies test on swine from other states removed for breeding purpose. 8. Reduce the quarantine period on swine removed for breeding or feeding to 30 days rather than until sent to slaughter.

Amendments to LSB 66 Slaughter Cattle and Slaughter Swine Identification propose that only sows, boars and stags received by any agent or agency for slaughter be identified by a tattoo to the herd of origin. The present requirement that butcher swine consigned for slaughter be tattooed would be deleted from the rule.

Statutory authority to promulgate the proposed rules is vested in the Board of Animal Health by Minn. Stat. § 35.03 (1978).

The agency estimated that there will be no cost to local public bodies in the State to implement the amendments or rule for the two years immediately following its adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule amendments are now available and at least one free copy may be obtained by writing to Board of Animal Health, LL70 Metro Square Building, 7th and Robert Streets, Saint Paul, Minnesota 55101, telephone (612) 296-2942. Additional copies will be available at the hearing.

Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner, (in the case of the Hearing Examiner's report), or to the agency, (in case of the agency's submission or resubmission to the Attorney General). 8

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or 6

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota, 55155, Telephone (612)296-5615.

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

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments to the Rules of the Board of Animal Health Governing 3 MCAR § 2.044 The establishment and operation of public stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification.

AFFIDAVIT OF MAILING

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

That on the 3rd day of November, 1980, 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 addresses to all persons and associations at the addresses listed on the attached department list of those persons and associations who have indicated that they wished to receive the department's notices of hearings.

L. T. Christensen

Subscribed and sworn to before me

this 3rd day of November, 1980.

Marian S. Comford

MARIAN S. COMFORD
Notary Public, Ramsey County, Mn.
My commission expires Sept. 16, 1986

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments to the Rules of the Board of Animal Health Governing 3 MCAR § 2.044 The establishment and operation of public stockyards and LSB 66 Slaughter Cattle and Slaughter Swine Identification.

AFFIDAVIT

I hereby certify that the attached sheets constitute a complete and accurate list of persons, associations, and other interested groups who have requested pursuant to M.S. Section 15.0412 subd. 4 (1978) that their names be placed on file with the agency for the purpose of receiving notice of public hearings on proposed rules on the subject captioned above.

Assistant Secretary

Subscribed and sworn to before me
this 31st day of October, 1980.

MARIAN S. COMFORD
Notary Public, Ramsey County, Mn.
My commission expires Sept. 16, 1986

DEPARTMENT LIST FOR HEARINGS

-A-

-B-

Bonnie Bonnanno
Room 300
1745 University Avenue
St. Paul, MN 55104

-C-

Countryside Council - CDIC
P. O. Box 78
Marshall, MN 56258

-D-

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room, State Capitol
Building

-E-

Executive Secretary
Minnesota Board of Pharmacy
717 Delware Street S.E. #351
Minneapolis, MN 55414

-F-

THE FARMER
1999 Shepard Road
St. Paul, MN 55116

Bob Franklin
City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

-G-

-H-

-I-

-J-

-K-

-L-

Mr. Lyle Lamphere
Secretary/Treasurer
MN Livestock Breeders Assoc.
112 - Tenth Ave. So.
So. St. Paul, MN 55075

David Luhman
R. R. 3
Goodhue, MN 55027

-M-

Minnesota Guernsey Breeders Association
Mrs. Walter Fuchs, Secretary
Route 1
Nerstrand, MN 55053

Minnesota Holstein Association
Box 485
Alexandria, MN 56308

Minnesota Milking Shorthorn Society
Harold Krause
Eagle Bend, MN 56446

-N-

Norman Nibbe
314 Walnut
Lake City, MN 55041

-O-

-P-

Peterson, Popovich, Knutson & Flynn
Professional Association
314 Minnesota Building
St. Paul, MN 55101

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

-Q-

-R-

Susan P. Robertson
Executive Director
Room 430, State Office Building
St. Paul, MN 55155

-S-

Al Schlosser
Department of Agriculture
132 Livestock Exchange
So. St. Paul, MN 55075

Gary Schnell
Secretary/Treasurer
MN Livestock Marketing Assoc.
631 Birchwood Drive
Bismarck, ND 58501

-T-

-U-

-V-

-W-

-X-

-Y-

-Z-

John W. Zwiebel
Adult Farm Management Instructor
Owatonna Public Schools
Ag. Building - 333 E. School St.
Owatonna, MN 55060

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed Adoption of Amendments to Rules of the Board of Animal Health 3 MCAR § 2.044 The Establishment and Operation of Public Stockyards

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the Office of Administrative Hearings at 9:30 A.M., Thursday, December 4, 1980 in Conference Room A of the Capitol Square Building; St. Paul, Minnesota after proper notice required by Minnesota Statutes (1978) section 15,0412 was served on all persons, associations and other interested groups registered with the State Board of Animal Health for that purpose and was published at State Register Volume 5 page 691.

Having afforded interested persons an opportunity to present written and oral data, statements and arguments, having heard all testimony, having considered all of the evidence adduced and upon the records, files and procedures herein, and applicable standards or criteria, having confirmed the need and reasonableness for the above-captioned amendments to 3 MCAR § 2.044, having considered the report of the Hearing Examiner dated December 30, 1980 and received on January 2, 1981 the Board makes the following findings:

Finding of Fact

1. The findings and conslusions in the report of the Hearing Examiner dated December 30, 1980 are hereby adopted.

2. The amendments adopted are essential for the State to maintain its status as a certified Brucellosis Free State.

3. Changes proposed at the public hearing consisted of a change in reference from "LSB 66" to 3 MCAR § 2.066 in D. 4. and E. 3. a. These changes are for purposes of clarification and donot in any way change the meaning or intent of the rule.

The board in adopting the rule believes the rule to be needed and reasonable.

January 19, 1981

J. G. Flint, DVM
Secretary and Executive Officer

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Adoption
of Rules of the State Board of Animal
Health
Governing 3 MCAR § 2.066 (old LSB66)
Slaughter Cattle and Slaughter Swine
Identification

FINDINGS OF FACT

AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 4th day of December, 1980 at 9:30 A.M. in conference room A of the Capitol Square Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the State Board of Animal Health 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 upon the records, files, and proceedings herein, the Board of Animal Health finds the following:

(1) The findings, conclusions, and recommendations of the Report of the Hearing Examiner dated December 30, 1980 are hereby adopted.

(2) The amendments adopted will relieve the swine marketing agencies from the work and swine producers from the cost of applying tattoos to butcher swine. The change will not adversely affect any official disease control or eradication program now in force.

(3) The Board of Animal Health in adopting the amended rule believes the amendments to be needed and reasonable.

STATE OF MINNESOTA

January 19, 1981

SECRETARY and EXECUTIVE OFFICER

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Dr. J. G. Flint, do hereby certify that I am the Secretary and Executive Officer of the Board of Animal Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Animal Health, duly and properly called and held on the 16th day of January, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and 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 § 2.044 The establishment and operation of public stockyards, be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes Section 35.03 and that Dr. R. L. Mersch, the President of the Board of Animal Health, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16th day of January, 1981.

Dr. J. G. Flint
Secretary and Executive Officer

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Dr. J. G. Flint, do hereby certify that I am the Secretary and Executive Officer of the Board of Animal Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Animal Health, duly and properly called and held on the 16th day of January, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and 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 § 2.066 Slaughter cattle and slaughter swine identification, be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes Section 35.03 and that Dr. R. L. Mersch, the President of the Board of Animal Health, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16th day of January, 1981.

Dr. J. G. Flint
Secretary and Executive Officer

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed Amendments
of the Rule 3MCAR § 2.044
The Establishment and Operation of Public Stockyards

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the Board of Animal Health. These rules were last amended June 16, 1980. The Board of Animal Health is authorized to promulgate and amend rules by Minnesota Statute § 35.03(1978).

The need to amend these rules arises because of requests from management and firms doing business at the South St. Paul Stockyards for relief from the present backtag requirement prior to removal of cattle from the Stockyards. The point at which backtags are required to be applied will be shifted to the point of original sale thereby facilitating more accurate determination of the herd of origin.

The statement regarding exposure to brucellosis is changed to reflect the fact that exposure of less than 24 hours may spread brucellosis. The change will become effective in January 1982 which will be the same as other Board rules. The requirement for removal of swine within 72 hours is deleted because present requirement for test of breeding swine is in conflict. The pseudorabies test can not be completed within the time alloted presently.

Provision is made for receiving quarantined livestock without a shipping permit on a statement signed by the owner as provided in pseudorabies and garbage feeding rules.

Reference to drylot feeding premises needs to be removed because recent changes in federal interstate rules prevent movement to drylots without added requirements not presently available in Minnesota.

Anaplasmosis test requirements have to be added because laws of 1980 Chapter 467 Section 35 require negative anaplasmosis test on all breeding cattle imported into Minnesota.

The rule needs to be changed to require a negative pseudorabies test for breeding swine originating from out of state as required by Rule MCAR § 2.005 Importation of Swine.

A change is made in the swine quarantine period from lifetime quarantine to a 30-day quarantine as required by MCAR § 2.005 Importation of Swine, MCAR

§ 2.041 Sale of Livestock at Auction Markets, Consignment, Community and Other Sales, and 3MCAR § 2.042 State-Federal approved Markets for Swine.

The foregoing amendments will not decrease the effectiveness of the rule nor impair animal disease control and is within the authority of Minnesota Statute § 35.03(1978).

J. G. Flint, DVM
Secretary and Executive Officer

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the matter of Proposed Amendments of the Rule relating to LSB66 Slaughter Cattle and Slaughter Swine Identification.

STATEMENT OF NEED AND REASONABLENESS

The above-captioned rules are amendments to existing rules of the Board of Animal Health. These rules were filed with Secretary of State and Commissioner of Administration August, 1973 and haven't been previously amended. The Board of Animal Health is authorized to promulgate and amend rules by Minnesota Statute § 35.03 (1978).

The need to propose these amended rules arises because many of the marketing agencies of the pork industry oppose the present rule which requires the identification by tattoo of all swine received for slaughter; and a delegation of market people met with the Board of Animal Health and requested that the rule be changed to require the identification by tattoo of only sows, boars, and stags.

In LSB66, Slaughter Cattle and Slaughter Swine Identification, complete identification means the identification by tattoo to the farm of origin of all butcher swine, sows, boars, and stags received for slaughter. Identification of sows, boars and stags only would mean the identification by tattoo to the farm of origin of only sows, boars, and stags received for slaughter.

Identification of sows, boars, and stags is needed for the brucellosis eradication program. Sows, boars, and stags are tested for brucellosis at the time of slaughter and those swine suspicious to the test are traced to farm of origin by the tattoo. The breeding swine on the farm are then tested to determine if the infection exists in the herd. This is an essential feature of the swine brucellosis eradication program. Complete identification of all slaughter swine is not needed for the brucellosis eradication program.

The Board of Animal Health adopted a rule for the eradication of swine brucellosis in August, 1973. The Board also adopted a rule for swine identification in August, 1973 as the identification of sows, boars, and stags was needed for the swine brucellosis eradication program, however, upon recommendation of the Governor's Advisory Committee on Swine Disease Prevention and as a result of the hearing held June 21, 1973, the rule adopted required identification of all slaughter swine.

The June 21, 1973 hearing was well attended by all segments of the pork industry. The market people opposed the proposed rule as they favored the identification of sows, boars, and stags only. People from other segments of the industry supported the proposed rule as they favored complete identification. As previously stated, the Board adopted a rule for complete identification.

Due to continued opposition to complete identification by marketing agencies, the Board proposed to amend LSB66, Slaughter Cattle and Slaughter Swine Identification, to require the identification of only sows, boars, and stags and a public hearing was held June 12, 1975. The market people again testified for only sow, boar, and stag identification and people from other segments of the industry again testified

for complete identification. The proposed changes were not adopted and complete identification remained mandatory.

A delegation of market people met with the Board on July 11, 1980 and again requested a change in the rule to require the identification of sows, boars, and stags only. At the October 17, 1980 meeting, the Board authorized another public hearing on the rule.

Complete identification has been mandatory by state rule for nearly eight years. The public hearing on the proposed amended rule will determine if, today, the pork industry wants complete slaughter swine identification or identification of only slaughter sows, boars, and stags. The proposed amendments will not jeopardize the swine brucellosis eradication program. Although complete identification is ideal, there exists some question if the value received justifies the labor required of the market people and costs to the pork producer. To allow input from the industry as a whole, the Board has authorized the hearing on the amended rules.

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

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General _____, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Special Assistant
Attorney General

Dated: 1/22/81