

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 786

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-22-82
DATE FOR REVIEW 3-5-82
DATE DUE 3-15-82

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

Approved 3-8-82 Disapproved Returned to Agency 3-9-82

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 3-9-82 Revisor approved / disapproved

---

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 1.15.82 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking (caption refers to rule by different name than as adopted but subject of rule - feedlots - is same)
11.17.81 date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
10.14.81 At least 30 days prior to hearing/[redacted]

✓ Mailing list Certificate

✓ Publication in State Register
10.12.81 At least 30/20 days prior to hearing/[redacted]

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
✓ 12.8.81 Approving H.E.'s Report
✓ 1.12.82 Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

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

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General
in 3/4 conversation with Dr. Flint, Secy, BD An. Health, he said no requests for notice had been rec'd.

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : R. L. MERSCH, D.V.M.
President of Board of Animal Health

DATE: 3/8/82

ATTN : JON K. MURPHY, Spec. Ass't. Atty. Gen.

FROM : LARRY D. STARNS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.057 Quarantined Feedlots

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.

LDS:drw

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JUDITH WEHRWEIN
Office of the Attorney General
204 Administration Building

DATE: February 19, 1982

RECEIVED
FEB 22 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCY

FROM : JON K. MURPHY
Special Assistant
Attorney General

PHONE: 6-0415
6-9310

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.057 Quarantined Feedlots.

Enclosed for review and approval are Rules for the Board of Animal Health. The Board originally sent them directly to your office which mistakenly forwarded them to me. I would assume that the original day of receipt would start the twenty day time period.

JKM:dw

Enc.

Board of Animal Health

Adopted Repeal of LSB 57, Approved Drylot Feeding Premises;
Adopted Rule 3 MCAR S 2.057, Quarantined Feedlots

Rule as Adopted

3 MCAR S 2.057 Quarantined feedlots.

A. Definitions. For the purposes of 3 MCAR S 2.057, the terms defined in this part have the meanings given them.

1. "Board" means the Board of Animal Health or its authorized agents.

2. "Quarantined feedlot" means a confinement area under official state quarantine for feeding cattle, jointly approved by the board and the Veterinary Services Division, Animal and Plant Health Inspection Service of the United States Department of Agriculture or its successor.

3. "Shipping permit" means an official document prepared by an accredited veterinarian, an agent of the board, or a veterinary services representative listing the following information about cattle to be shipped: identification numbers, owner's name and address, origin and destination locations, number of cattle, and the purpose of the movement.

4. "'S' brand permit" means a document prepared by an accredited veterinarian, an agent of the board, a veterinary services representative or an official of a quarantined feedlot listing the following information about cattle to be moved: origin; destination; number of cattle; identification numbers; and the purpose of the movement. Use of an "S" brand permit is restricted to movement from a quarantined feedlot to slaughter.

5. "'S' branded cattle" means cattle that are identified by a hot iron brand with the letter "S" at least two inches by two inches on the left jaw or high on the tailhead.

B. Approval of quarantined feedlot. The secretary and executive officer of the board and the veterinarian in charge, Veterinary Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture or their

designees ~~may~~ shall approve any premises within the state to be a quarantined feedlot if the applicant for approval complies with the requirements of this part.

1. An applicant for approval must submit a drawing of the feedlot facilities in sufficient detail for the approving authority to determine the potential for the spread of disease. The drawing shall include:

a. Lot sizes;

b. Building locations;

c. Fence locations and type of fence;

d. Water tank and feed bunk locations;

e. Distances to all adjoining premises;

f. Location of all water courses, drainage directions and bodies of water on the premises.

2. An applicant for approval must agree to maintain cattle in compliance with D.

3. An applicant for approval must submit the names and addresses of property owners immediately adjoining the quarantined feedlot for purposes of community notification.

C. Expiration, renewal and revocation of approval. Approval of a quarantined feedlot shall expire each year on June 30 and may be renewed for a period of one year. Revocation of approval of a quarantined feedlot ~~may~~ shall be made by the board 21 days following written notice if no cattle have been in the feedlot for one year or the requirements of this rule and the other applicable rules of the board are not met.

D. Requirements; prohibitions. The holder of a quarantined feedlot permit shall:

1. Allow no cattle that are not permanently branded with a hot iron letter "S" to enter the premises;

2. Allow entry of representatives of the board for inspection purposes at any reasonable time;

3. Allow no other species of livestock in the quarantined feedlot;

4. Remove manure to fields not used for livestock;

5. Keep complete records available for inspection at any

reasonable time; and

6. Submit monthly reports indicating:

a. The number of cattle placed in the feedlot and the source of those cattle;

b. The number of cattle sold and where those cattle were sold; and

c. The number of cattle deaths or cattle slaughtered.

E. Movement without testing. The board ~~may~~ shall issue permits for importation of cattle into Minnesota or movement of cattle from a public stockyard in Minnesota to a quarantined feedlot without testing for brucellosis, tuberculosis, or anaplasmosis if the following conditions are met:

1. A health certificate which lists each animal's individual ear tag number accompanies the cattle; and

2. Each animal is branded with the letter "S" with a hot brand on the left jaw or high on the tailhead.

F. Branding of added cattle. Cattle added to a quarantined feedlot from any other place must be "S" branded immediately upon arrival at the quarantined feedlot.

G. Removal of cattle. Cattle with a visible "S" brand may be sold for slaughter to a slaughtering establishment or market for slaughter purposes if:

1. A shipping permit is issued by an accredited veterinarian or the board showing the identity numbers, point of origin, destination, and number of cattle in the shipment; or

2. An "S" brand permit is issued by a designated official of the quarantined feedlot with identity numbers or backtag numbers listed on the permit.

Repealer. Rule LSB 57 of the Board of Animal Health is repealed.

3/8/82

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Board of Animal Health

Rule Numbers: 3 MCAR S 2.057

Rule Title: Adopted Repeal of LSB 57, Approved Drylot Feeding Premises: Adopted Rule 3 MCAR S 2.057, Quarantined Feedlots

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference: None

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
March 8, 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

Name: Lorna M. Breiter
Lorna M. Breiter

Title: Assistant Revisor

Phone: 296-2778

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR - 9 1982
Joan Anderson Growe
Secretary of State
9:05AM

(COPY OF RULE AS PROPOSED FOR FINAL ADOPTION)

Rule as Proposed (all new material)

3 MCAR S 2.057 Quarantined feedlots.

A. Definitions. For the purposes of 3 MCAR S 2.057, the terms defined in this part have the meanings given them.

1. "Board" means the Board of Animal Health or its authorized agents.

2. "Quarantined feedlot" means a confinement area under official state quarantine for feeding cattle, jointly approved by the board and the Veterinary Services Division, Animal and Plant Health Inspection Service of the United States Department of Agriculture or its successor.

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4. "'S' brand permit" means a document prepared by an accredited veterinarian, an agent of the board, a veterinary services representative or an official of a quarantined feedlot listing the following information about cattle to be moved: origin; destination; number of cattle; identification numbers; and the purpose of the movement. Use of an "S" brand permit is

restricted to movement from a quarantined feedlot to slaughter.

5. "'S' branded cattle" means cattle that are identified by a hot iron brand with the letter "S" at least two inches by two inches on the left jaw or high on the tailhead.

B. Approval of quarantined feedlot. The secretary and executive officer of the board and the veterinarian in charge, Veterinary Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture or their designees ~~may~~ shall approve any premises within the state to be a quarantined feedlot if the applicant for approval complies with the requirements of this part.

1. An applicant for approval must submit a drawing of the feedlot facilities in sufficient detail for the approving authority to determine the potential for the spread of disease. The drawing shall include:

a. Lot sizes;

b. Building locations;

c. Fence locations and type of fence;

d. Water tank and feed bunk locations;

e. Distances to all adjoining premises;

f. Location of all water courses, drainage directions and bodies of water on the premises.

2. An applicant for approval must agree to maintain cattle in compliance with D.

3. An applicant for approval must submit the names and addresses of property owners immediately adjoining the quarantined feedlot for purposes of community notification.

C. Expiration, renewal and revocation of approval. Approval of a quarantined feedlot shall expire each year on June 30 and may be renewed for a period of one year. Revocation of approval of a quarantined feedlot ~~may~~ shall be made by the board 21 days following written notice if no cattle have been in the feedlot for one year or the requirements of this rule and the other applicable rules of the board are not met.

D. Requirements; prohibitions. The holder of a quarantined feedlot permit shall:

1. Allow no cattle that are not permanently branded with a hot iron letter "S" to enter the premises;

2. Allow entry of representatives of the board for inspection purposes at any reasonable time;

3. Allow no other species of livestock in the quarantined feedlot;

4. Remove manure to fields not used for livestock;

5. Keep complete records available for inspection at any reasonable time; and

6. Submit monthly reports indicating:

a. The number of cattle placed in the feedlot and the source of those cattle;

b. The number of cattle sold and where those cattle were sold; and

c. The number of cattle deaths or cattle slaughtered.

E. Movement without testing. The board ~~may~~ shall issue permits for importation of cattle into Minnesota or movement of cattle from a public stockyard in Minnesota to a quarantined feedlot without testing for brucellosis, tuberculosis, or anaplasmosis if the following conditions are met:

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2. Each animal is branded with the letter "S" with a hot brand on the left jaw or high on the tailhead.

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G. Removal of cattle. Cattle with a visible "S" brand may be sold for slaughter to a slaughtering establishment or market for slaughter purposes if:

1. A shipping permit is issued by an accredited veterinarian or the board showing the identity numbers, point of origin, destination, and number of cattle in the shipment; or

2. An "S" brand permit is issued by a designated official of the quarantined feedlot with identity numbers or backtag numbers listed on the permit.

Repealer. Rule LSB 57 of the Board of Animal Health is repealed.

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

Agency Board of Animal Health

Division Imports and Markets Division

Agency Contact Dr. Robert Pyle Phone Number 6-2941

Title: Proposed Rule Governing Quarantine of Feedlots and Repealing Rule LSB 57 of the Board of Animal Health Governing Approved Dry Lot Feeding Premises

Type of Rules: Permanent X Temporary_____

Incorporations by References:

Rule Number	Material Incorporated
	Author
	Title
	Place
	Publisher NONE
	Date
	Cost
	Places Available

See Additional references on back Yes____ No____

Duplication of Statutory Language.

Rule Number	Statutory Section Duplicated
NONE	

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Craig E. Lindeke
Craig E. Lindeke
Title: Assistant Revisor

Phone: 296-0946

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 § 2.057 Quarantined Feedlots.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 17th day of November, 1981, at 9:30 A.M., in Room 594, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101 after proper notice required by Minnesota Statutes section 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 § 2.057 Quarantined Feedlots are adopted this 15th day of January, 1982, pursuant to authority vested in me by Minnesota Statutes section 35.03 1980.

STATE OF MINNESOTA

R. L. Mersch, D.V.M.
President of Board of Animal Health

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Amendment
to Rules of the Minnesota Board of Animal
Health, Governing LSB 57 Approved Drylot
Feeding Premises

ORDER OF HEARING

To effectively implement and make more specific the Board of Animal Health deems it necessary to consider amending the above-captioned rule pursuant to the authority vested in it by Minn. Stat. 1980, Sec. 35.03.

NOW, THEREFORE, IT IS ORDERED this 21st day of September, 1981, that a public hearing on the proposed amendment to the above-captioned rules be held in the Room 594, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, on Tuesday the 17th day of November, 1981, 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 given to all representatives of associations or other interested groups or persons who have registered their name with the Board of Animal Health 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
Board of Animal Health

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed repeal of a rule of the Board of Animal Health LSB 57 Approved Drylot Feeding Premises

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, subd, 4 (1978), in the Room 594 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, commencing at 9:30 A.M., or as soon thereafter as possible, Tuesday, November 17, 1981; and continuing until all interested or affected persons have had an opportunity to be heard. The proposed rule may be modified as a result of the hearing process; therefore if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

The Board of Animal Health proposes to repeal rule LSB 57 Approved Drylot Feeding Premises and substitute for it 3 MCAR § 2.057 Quarantined Feedlot, so that the rule is in compliance with the Brucellosis Uniform Methods and Rules and Federal interstate regulations with respect to brucellosis. The proposed changes include the following:

1. The designation of "Approved Drylot Feeding Premises" shall be changed to "Quarantined Feedlot."

2. Cattle in a quarantined feedlot will be branded with a "S" brand on the left jaw or high on the tailhead.

3. "S" branded cattle sent to slaughter will be accompanied by a shipping permit issued by the feedlot operator.

4. The quarantined feedlot operator will make available to the Board of Animal Health the names of adjoining property owners for community notification purposes.

5. All quarantined feedlots must be approved by the Secretary and Executive Officer of the Board of Animal Health and the Veterinarian in Charge, Veterinary Services Division, Animal and Plant Health Inspection Services, U.S.D.A.

A free copy of the proposed rule is available and can be obtained from the Minnesota Board of Animal Health, LL70 Metro Square, St. Paul, Minnesota, 55101. Additional copies will be available at the hearing.

Statutory authority to promulgate the proposed rules is vested in the Board of Animal Health by Minn. Stat. § 35.03 (1980). Adoption of the proposed rule 3 MCAR § 2.057 will not require the expenditures of additional public monies by local public bodies.

CERTIFICATE

OF

BOARD'S AUTHORIZING RESOLUTION

I, J. G. Flint, do hereby certify that I am Secretary of the Board of Animal Health, 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 Board of Animal Health duly and properly called and held on the 17th day of July, 1981, 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 57 Approved Drylot Feeding Premises, 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 21st day of September, 1981.

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

Relevant statements or written material may be submitted for the record at the hearing or to the hearing examiner, Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, phone 612-296-8114 before the hearing or within five working days after the public hearing or for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner at the hearing. The rule hearing procedure is governed by Minn. Stat. §§ 15.041, 15.0417 and 15.052 and by 9 MCAR §§ 2.101 - 2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedures, call or write the hearing examiner.

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 considerations, 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

(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.

Notice: 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 rule 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).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and 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 or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

STATE OF MINNESOTA
BOARD OF ANIMAL HEALTH

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

Dated this 21st day of September, 1981.

In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.057 Quarantine Feedlots

AFFIDAVIT OF MAILING

STATE OF MINNESOTA

COUNTY OF RAMSEY

Dr. W. J. Mackey, being first duly sworn deposes and says:

That on the 14th day of October, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of (Hearing/Intent to Adopt Rules Without Public Hearing) by depositing in the (State of Minnesota Central Mail System for United States mailing (or) United States mail) at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Board of Animal Health for the purpose of receiving notice of the proposed adoption of rules by this State Agency.

W. J. Mackey D.V.M.

Subscribed and sworn to before me this 20 day of October, 1981.

Marian S. Comford

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

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE OF MAILING LIST

In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.057 Quarantine Feedlots.

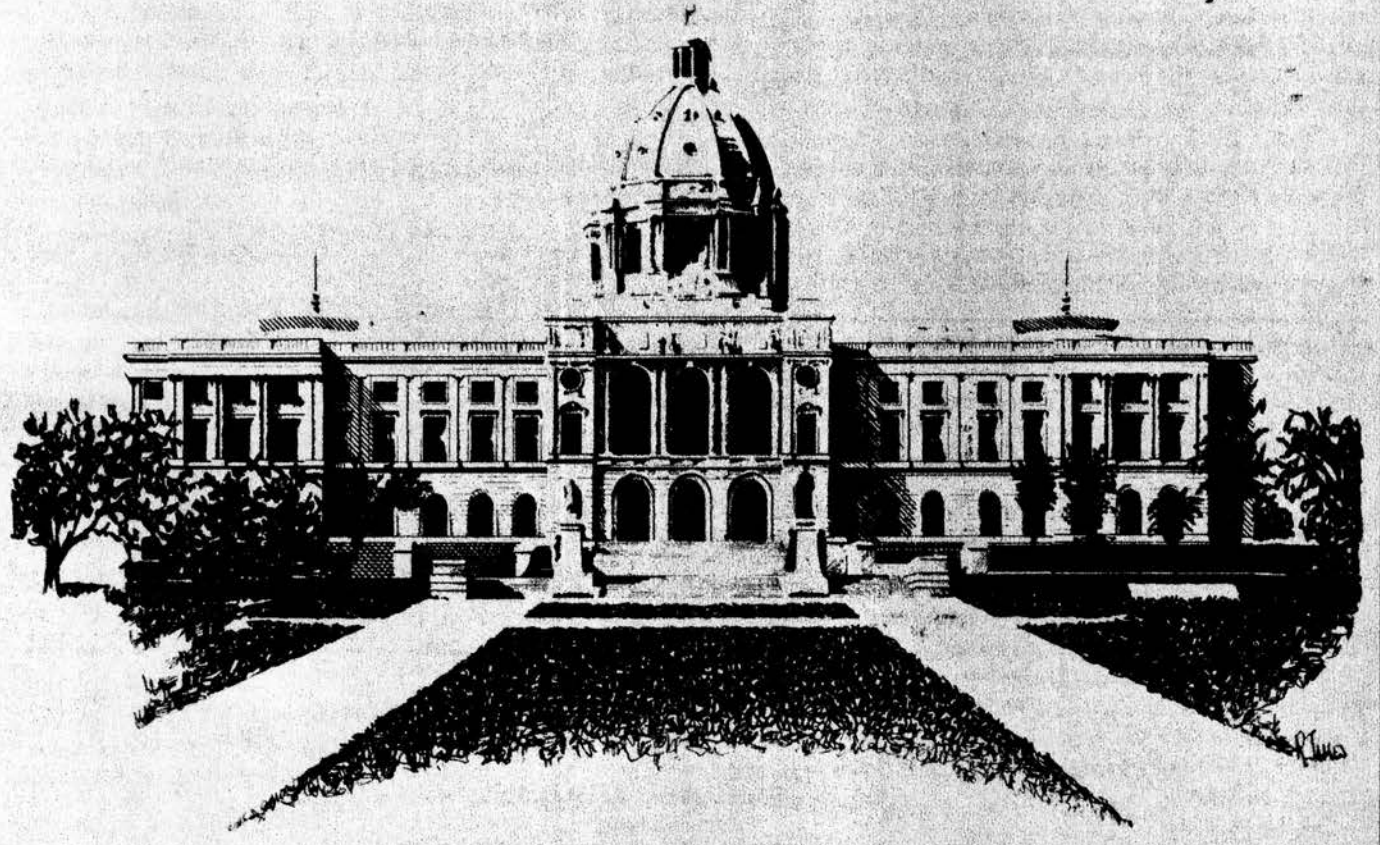
I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Board of Animal Health for the purpose of receiving notice of the proposed adoption of rules by this State Agency is accurate and complete as of 12:00 A.M., this 14th day of October, 1981.

L. J. Mackey D.V.M.

3 MCAR 2.057
Pg 47

STATE REGISTER

STATE OF MINNESOTA



VOLUME 6, NUMBER 15

October 12, 1981

Pages 613-660

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Animal Health

Proposed Repeal of LSB 57, Approved Drylot Feeding Premises; Proposed Rule 3 MCAR § 2.057, Quarantined Feedlots

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, subd. 4 (1978), in the Room 594 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota, commencing at 9:30 a.m., or as soon thereafter as possible, Tuesday, November 17, 1981; and continuing until all interested or affected persons have had an opportunity to be heard. The proposed rule may be modified as a result of the hearing process; therefore if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

The Board of Animal Health proposes to repeal rule LSB 57 Approved Drylot Feeding Premises and substitute for it 3 MCAR § 2.057 Quarantined Feedlots, so that the rule is in compliance with the Brucellosis Uniform Methods and Rules and Federal interstate regulations with respect to brucellosis. The proposed changes include the following:

1. The designation of "Approved Drylot Feeding Premises" shall be changed to "Quarantined Feedlots."
2. Cattle in a quarantined feedlot will be branded with a "S" brand on the left jaw or high on the tailhead.
3. "S" branded cattle sent to slaughter will be accompanied by a shipping permit issued by the feedlot operator.
4. The quarantined feedlot operator will make available to the Board of Animal Health the names of adjoining property owners for community notification purposes.
5. All quarantined feedlots must be approved by the Secretary and Executive Officer of the Board of Animal Health and the Veterinarian in Charge, Veterinary Services Division, Animal and Plant Health Inspection Services, U.S.D.A.

A free copy of the proposed rule is available and can be obtained from the Minnesota Board of Animal Health, LL70 Metro Square, St. Paul, Minnesota, 55101. Additional copies will be available at the hearing.

Statutory authority to promulgate the proposed rules is vested in the Board of Animal Health by Minn. Stat. § 35.03 (1980). Adoption of the proposed rule 3 MCAR § 2.057 will not require the expenditures of additional public monies by local public bodies.

Relevant statements or written material may be submitted for the record at the hearing or to the hearing examiner, Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, phone (612) 296-8114 before the hearing or within five working days after the public hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner at the hearing. The rule hearing procedure is governed by Minn. Stat. §§ 15.041, 15.0417 and

KEY: PROPOSED RULES SECTION — 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedures, call or write the hearing examiner.

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 considerations, 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

(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.

Notice: 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 rule 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).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and 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 or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

September 21, 1981

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

Rule as Proposed (all new material)

3 MCAR § 2.057 Quarantined feedlots.

A. Definitions. For the purpose of 3 MCAR § 2.057, the term defined in this part have the meanings given them.

1. "Board" means the Board of Animal Health or its authorized agents.

2. "Quarantined feedlot" means a confinement area under official state quarantine for feeding cattle, jointly approved by the board and the Veterinary Services Division, Animal and Plant Health Inspection Service of the United States Department of Agriculture or its successor.

3. "Shipping permit" means an official document prepared by an accredited veterinarian, an agent of the board, or a veterinary services representative listing the following information about cattle to be shipped: identification numbers, owner's name and address, origin and destination locations, number of cattle, and the purpose of the movement.

4. "'S' brand permit" means a document prepared by an accredited veterinarian, an agent of the board, a veterinary services representative or an official of a quarantined feedlot listing the following information about cattle to be moved: origin; destination; number of cattle; identification numbers; and the purpose of the movement. Use of an "S" brand permit is restricted to movement from a quarantined feedlot to slaughter.

5. "'S' branded cattle" means cattle that are identified by a hot iron brand with the letter "S" at least two inches by two inches on the left jaw or high on the tailhead.

B. Approval of quarantined feedlot. The secretary and executive officer of the board and the veterinarian in charge, Veterinary Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture or their designees may approve any premises within the state to be a quarantined feedlot if the applicant for approval complies with the requirements of this part.

1. An applicant for approval must submit a drawing of the feedlot facilities in sufficient detail for the approving authority to determine the potential for the spread of disease. The drawing shall include:

a. Lot sizes;

b. Building locations;

c. Fence locations and type of fence;

d. Water tank and feed bunk locations;

e. Distances to all adjoining premises;

f. Location of all water courses, drainage directions and bodies of water on the premises.

2. An applicant for approval must agree to maintain cattle in compliance with D.

3. An applicant for approval must submit the names and addresses of property owners immediately adjoining the quarantined feedlot for purposes of community notification.

C. Expiration, renewal and revocation of approval. Approval of a quarantined feedlot shall expire each year on June 30 and may be renewed for a period of one year. Revocation of approval of a quarantined feedlot may be made by the board 21 days following written notice if no cattle have been in the feedlot for one year or the requirements of this rule and the other applicable rules of the board are not met.

D. Requirements; prohibitions. The holder of a quarantined feedlot permit shall:

1. Allow no cattle that are not permanently branded with a hot iron letter "S" to enter the premises;

2. Allow entry of representatives of the board for inspection purposes at any reasonable time;

3. Allow no other species of livestock in the quarantined feedlot;

4. Remove manure to fields not used for livestock;

5. Keep complete records available for inspection at any reasonable time; and

6. Submit monthly reports indicating:

a. The number of cattle placed in the feedlot and the source of those cattle;

b. The number of cattle sold and where those cattle were sold; and

c. The number of cattle deaths or cattle slaughtered.

E. Movement without testing. The board may issue permits for importation of cattle into Minnesota or movement of cattle from a public stockyard in Minnesota to a quarantined feedlot without testing for brucellosis, tuberculosis, or anaplasmosis if the following conditions are met:

1. A health certificate which lists each animal's individual ear tag number accompanies the cattle; and

2. Each animal is branded with the letter "S" with a hot brand on the left jaw or high on the tailhead.

F. Branding of added cattle. Cattle added to a quarantined feedlot from any other place must be "S" branded immediately upon arrival at the quarantined feedlot.

G. Removal of cattle. Cattle with a visible "S" brand may be sold for slaughter to a slaughtering establishment or market for slaughter purposes if:

1. A shipping permit is issued by an accredited veterinarian or the board showing the identity numbers, point of origin, destination, and number of cattle in the shipment; or

2. An "S" brand permit is issued by a designated official of the quarantined feedlot with identity numbers or backtag numbers listed on the permit.

Repealer. Rule LSB 57 of the Board of Animal Health is repealed.

KEY: PROPOSED RULES SECTION — 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

RECEIVED
FEB 10 1982

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

December 9, 1981

Jack G. Flint, D.V.M.
Board of Animal Health
LL70 Metro Square Building
St. Paul, Minnesota 55101

RE: In the Matter of the Proposed Repeal of LBS 57, Approved Drylot Feeding Premises; Proposed Rule 3 MCAR Sec. 2.057, Quarantined Feedlots.
OAH Docket No. BAH-82-002-PE

Dear Dr. Flint:

I enclose herewith and serve upon you by mail the Report of the Hearing Examiner in the above-entitled matter together with the official record, and I am closing our file in this case.

Yours very truly,

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner
(612) 296-8118

PCE/eag
Encs.
CC: Mr. James Jarvis, Special Assistant Attorney General

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 9th day of December, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Chief Hearing Examiner and Report of the Hearing Examiner, BAH-82-002-PE unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Eileen A. Gaiovnik

Subscribed and sworn to before me this
9th day of December, 1981.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

Jack G. Flint, D.V.M.
Board of Animal Health
LL70 Metro Square Building
St. Paul, Minnesota 55101

Mr. James Jarvis
Special Assistant Attorney General
720 American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota 55101

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Repeal of LBS 57, Approved Drylot feeding Premises; Proposed Rule 3 MCAR S 2.057, Quarantined Feedlots.

REPORT OF THE CHIEF HEARING EXAMINER

The above-entitled matter came on for review by the Chief Hearing Examiner pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980) which provides in part:

> If the [hearing examiner's] report contains a finding that the proposed rule is substantially different from that which was proposed at the public hearing, or that the agency has not met the requirements of section 15.0412, subdivisions 4 through 4f, it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, he shall advise the agency of actions which will correct the defects, and the agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected. If the chief hearing examiner determines that the need for and reasonableness of the rule has not been established pursuant to subdivision 4, clause (c), and if the agency does not elect to follow the suggested actions of the hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not proceed to adopt the rule until it has received and considered the advice of the commission; provided, that the agency is not required to delay adoption longer than 30 days after the commission's receipt of the agency's submission.

Based upon a review of the record in this proceeding, the Chief Hearing Examiner hereby approves the Report of the Hearing Examiner in all respects and specifically as to any finding of substantial change or of failure to comply with Minn. Stat. § 15.0412, subd. 4-4f (1980) or of failure to establish need for and reasonableness of the proposed rule.

In order to correct the defects enumerated by the Hearing Examiner, the agency shall either take the action recommended by the Hearing Examiner or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Hearing Examiner, it shall, prior to submitting the rules to the Attorney General for review, submit to the Chief Hearing Examiner a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Hearing Examiner will then make a determination as to whether the defect in regard to substantial change and the requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) have been corrected.

Should the agency make changes in the rules other than those recommended by the Hearing Examiner, it shall also, prior to submitting the rule to the Attorney General, submit the complete record to the Chief Hearing Examiner for a review in regard to substantial changes.

Dated: December 8, 1981.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Repeal of LSB 57, Approved Drylot Feeding Premises; Proposed Rule 3 MCAR § 2.057, Quarantined Feedlots.

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 9:45 a.m. on Tuesday, November 17, 1981 in the Large Hearing Room, Metro Square Building, Seventh Place and Robert Street, St. Paul, Minnesota.

James Jarvis, Special Assistant Attorney General, 720 American Center Building, 160 E. Kellogg Boulevard, St. Paul, Minnesota 55101, appeared on behalf of the Board of Animal Health. Walter J. Mackey, J. G. Flint, and Robert Pyle, Doctors of Veterinary Medicine, appeared and testified on behalf of the Board of Animal Health (hereinafter "Board"). The hearing continued until all interested groups of persons had had an opportunity to be heard concerning the adoption of the proposed rules.

The Board of Animal Health must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 4d (1980), this Report has been submitted to the Chief Hearing Examiner for his approval. If the Chief Hearing Examiner approves the findings of this Report, he will advise the Board of actions which will correct the defects and the Board may not adopt the rule until the Chief Hearing Examiner determines that the defects have been corrected. However, in those instances where the Chief Hearing Examiner identifies defects which relate to the issues of need or reasonableness, the Board may either adopt the Hearing Examiner's recommendations to cure the defects or, in the alternative, if the Board does not elect to adopt the recommendations, it may submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment. Provisions relating to this submission to the Commission may be found in Minn. Stat. § 15.0412, subd. 4d (1980).

If the Board elects to adopt the recommendations of the Hearing Examiner and makes no other changes and the Chief Hearing Examiner determines that the defects have been corrected, then the Board shall submit the rule to the Attorney General for review of form and legality. If the Board makes changes in the rule other than those recommended by the Hearing Examiner, then it shall submit the rule, with the complete record, to the Chief Hearing Examiner for a review of the changes before adopting it and submitting it to the Attorney General. Procedures relating to this subsequent review by the Chief Hearing Examiner are set forth in Minn. Stat. § 15.0412, subd. 4e (1980).

When the Board submits the rule to the Attorney General, it shall give notice on the day of submission to all persons who requested that they be informed of the submission to the Attorney General.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On September 21, 1981, the Board of Animal Health 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 October 12, 1981, a Notice of Hearing and a copy of the proposed rules were published at 6 State Register 15, pp. 617-619.

3. On October 14, 1981, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Board for the purpose of receiving such notice.

4. On October 22, 1981, 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.
(g) An Affidavit of Additional Notice.
(h) The Petition requesting a rule hearing.

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 4, 1981 for the receipt of written comments and statements.

6. Statutory authority to promulgate the proposed rules is contained in Minn. Stat. § 35.03 (1980).

7. The primary purpose of repealing present LSB 57, Drylot Feeding Premises, and adopting proposed 3 MCAR § 2.057, Quarantined Feedlots, is to comply with the requirements of the newly adopted Uniform Methods and Rules for the Eradication of Brucellosis (UMR). The UMR is a group of minimum standards recommended by the United States Animal Health Association and adopted by the United States Department of Agriculture, effective April 1, 1981. The new agriculture regulations restrict the interstate movement of untested test-eligible cattle in certain situations, one of which is movement to "quarantined feedlots." Besides the change in title, the UMR requires:

a. Hot brand letter "S" on the jaw or high on the tailhead.
b. Joint approval of the USDA and the Board of Animal Health.
c. Provides for notification of adjoining property owners.
d. Mandatory recordkeeping system.
e. Provides for revocation of quarantined feedlot approval.
f. Allows the importation of cattle without tests.

These changes in the proposed rule will increase the ability of the Board to control disease and not add to industry costs or constitute a hazard to the health of domestic animals in the state.

8. By use of the word "may" in paragraphs B., C. and E. of the proposed rule, the Board has unbridled discretion to approve a quarantined feedlot, revoke approval or issue a permit for the importation of untested cattle, respectively. This discretion has been found by the Attorney General, on many occasions, to be in violation of Minn. Stat. § 15.0411, subd. 3, and is a violation of a substantive provision of law. Because criteria for approval, revocation of approval and the issuance of a permit are spelled out in the rule, the "mays" should be changed to "shall" to correct the defect, thus guaranteeing certain action by the Board if the criteria are met. The Examiner points out that additional use of the word "may" in paragraphs C. and G. is appropriate because it applies to the regulated public, not to the Board.

If the above-mentioned change are made, the Examiner finds that the need for and reasonablenes of the proposed rule has been demonstrated by the Board.

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

CONCLUSIONS

1. That the Board of Animal Health gave proper notice of the hearing in this matter.

2. That the Board has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Board has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980), except as noted at Finding 8.

4. That the Board has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the Hearing Examiner has suggested action to correct the defects cited in Conclusion 3 as noted at Finding 8.

6. That due to Conclusion 3 , this Report has been submitted to the Chief Hearing Examiner for his approval pursuant to Minn. Stat. § 15.0412, subd. 4d (1980).

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

8. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Board from further modification of the proposed rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated this 8 day of December, 1981.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner

BAH-82-002-PE

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF ANIMAL HEALTH

IN THE MATTER OF THE PROPOSED REPEAL OF LSB 57, APPROVED DRYLOT FEEDING PREMISES; PROPOSED RULE 3 MCAR § 2.057, QUARANTINED FEEDLOTS.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on November 17, 1981, before Peter C. Erickson, a Hearing Examiner of the State Office of Administrative Hearings, 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 Board of Animal Health and;

WHEREAS, the Board of Animal Health has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4-4f; and

WHEREAS, the Board of Animal Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 4, and 9 MCAR § 2.111; 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 Board of Animal Health has cured the defects in the rules as required.

NOW, THEREFORE, upon receipt of this Order, the Board of Animal Health has the responsibility of submitting the complete hearing record and the rules as adopted by the Board of Animal Health to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4e and 4f.

Dated: January 12, 1982.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Adoption of Rules of the Board of Animal Health 3MCAR § 2.057 Quarantined Feedlots

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson on the 17th day of November, 1981, at 9:45 A.M. in the Hearing Room, Metro Square Building, Seventh Place and Robert Street, 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, I find the following:

1. The findings and conclusions in the report of the Hearing Examiner dated December 8, 1981 are hereby adopted.

2. The rule as adopted is necessary for the State of Minnesota to maintain its Brucellosis Free Status.

3. The changes recommended by the Hearing Examiner do not change the meaning or intent of the proposed rule.

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

January 6, 1982

J. G. Flint, DVM
Secretary and Executive Officer

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Dr. 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 15th day of January, 1982, 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 minnutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to 3 MCAR § 2.057 Quarantined Feedlots hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes section 35.03 1980 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 15th day of January, 1982.

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

Attest by one other Board member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed
Rule 3MCAR § 2.057
Quarantined Feedlots and repealing
Rule LSB 57 of The Board of Animal Health
Governing Approved Dry Lot Feeding Premises.

STATEMENT OF NEED AND REASONABLENESS

Rule LSB 57, approved Dry Lot Feeding Premises needs to be replaced by Rule 3MCAR § 2.057, Quarantined Feedlots. The Board of Animal Health is authorized to promulgate and amend rules by Minnesota Statute § 35.03 (1980).

The need to adopt this rule as a replacement of LSB 57 arises because of changes made in rule 3MCAR§2.001, Importation of Cattle, and changes in Recommended Uniform Methods and Rules for Brucellosis Eradication.

The method of identification needs to be changed to use Hot brand letter "S" instead of "F" in order to be uniform with all other states.

Provision needs to be made for joint approval by the Board of Animal Health and the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Revocation and cancellation guidelines need to be established.

There is a need for a document to allow the management of the lot to send cattle to slaughter without an accredited veterinarians inspection.

The changes listed will increase the ability of the Board to control disease. The changed rule will not add to industry costs and does not constitute a hazard to the health of the domestic animals of the state.

Adoption and need of the rule 3MCAR § 2.057 is within the authority of Minnesota Statute § 35.03 (1980).

J. G. Flint DVM
Secretary and Executive Officer

In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.057 Quarantined Feedlots.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, (Special Assistant Attorney General) Jon Murphy, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedures 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: 2/5/82

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 § 2.057 Quarantined Feedlots.

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, February 3, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least 20 calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after (the hearing/publication in the State Register) and before submission to the Attorney General, you may contact Dr. W. J. Mackey, Board of Animal Health, telephone 612-296-3592.

