

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Board of Animal Health

Adopted Amendment of Rules Governing Control of Mycoplasma in Poultry (3 MCAR S 2.032) and Salmonella Typhi-Murium Disease in Turkeys (LSB 33)

Rules as Adopted

3 MCAR S 2.032 Control of Mycoplasma in poultry.

A.-B. [Unchanged.]

C. Flock participation requirements.

1.-4. [Unchanged.]

5. All birds from which a blood sample is collected shall be identified with an official leg or wing band or other acceptable identification approved by the board at the time the samples are collected.

6. [Unchanged.]

D.-M. [Unchanged.]

LSB 33 Control of Salmonella Typhi-Murium disease in turkeys. Pursuant to Minnesota Statutes, sections 35.03 and 15.0412, and Laws of 1969 ch. 8, the Livestock Sanitary Board hereby adopts the following rules and regulations:

(a)-(d) [Unchanged.]

(e) Testing.

(1)-(3) [Unchanged.]

(4) All birds from which blood samples and fecal swabs are collected shall be identified with an official leg or wing band or other acceptable identification approved by the board at the time the collections are made.

(5) and (6) [Unchanged.]

(f)-(l) [Unchanged.]

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Board of Animal Health AR0231

Division:

Agency Contact: Dr. W.J. Mackey, D.V.M.

Rule Numbers: 3 MCAR S 2.032; Rule LSB33 of the Board of Animal Health

Title: Adopted Amendment of Rules Governing Control of Mycoplasma in Poultry and Salmonella Typhi-Murium Disease in Turkeys

Type of Rules: Permanent

Incorporations by Reference:
Rule Number: Material Incorporated:

Duplication of Statutory Language:
Rule Number: Statutory Section Duplicated:

The attached rules are approved as to form, subject to the following editorial changes:

Page 1, line 20 change "Livestock Sanitary Board" to "Board of Animal Health"

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Assistant Revisor
Phone: 296-0946

Date: October 28, 1982

APPROVED AS TO LEGALITY
November 9 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 22 1982
11:15AM
Joan Anderson Growe
Secretary of State

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

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

DATE: 11/9/82

Attn: JON MURPHY, Spec. Asst. Atty. Gen.

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3473

SUBJECT: In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys

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;

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.

Encs.

LDS/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Our File No. 859

10/28 requested Mackey to submit new Order Adopting rec'd 10/28

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10/26/82
DATE FOR REVIEW 11/4/82
DATE DUE 11/9/82

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

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 10/28/82
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 10.15.82 Date ~~signed by someone other than authorized by Resolution Adopting~~ replaced by correctly signed Order

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
7.12.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
7.26.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ 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

N/A 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
submitted but not necessary — no requests — see FofF

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys

ORDER ADOPTING RULES

Notice of the Board's intent to amend the above-entitled rules without a public hearing was published in the State Register on July 26, 1982 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on August 12, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys are amended this 15th day of October, 1982 pursuant to authority vested in the Board by Minnesota Statutes section 35.03, 1980.

STATE OF MINNESOTA

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

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys.

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Board of Animal Health proposes to amend the above-entitled rules without a public hearing. The Board has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Attention Dr. W. J. Mackey
State Board of Animal Health
LL70 Metro Square Building
St. Paul, MN 55101

Authority for the amendment of these rules is contained in Minnesota Statutes section 35.03 (1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Dr. W. J. Mackey upon request.

Upon amendment of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Amended will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for amendment, should submit a written statement of such request to Dr. W. J. Mackey.

The rules proposed for amendment relate to the following matters: LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys.

A copy of the proposed rule amendment is attached to this notice.

STATE OF MINNESOTA

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

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Dr. Robert L. Mersch, do hereby certify that I am a member and the President 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 9th day of July, 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 minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Dr. J. G. Flint, Secretary and Executive Officer of the Board of Animal Health, hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to amend without a public hearing rules governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys, to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of July, 1982.

Dr. Robert L. Mersch, President
State Board of Animal Health

Attest by one other Board member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys.

ORDER FOR NOTICE OF INTENT TO AMEND RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 12th day of July, 1982 that a Notice of Intent to Amend Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Board of Animal Health for that purpose and be published in the State Register.

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

In the Matter of the Proposed Amendment of
Rules of the State Board of Animal Health
Governing LSB 33 Control of Salmonella
Typhi-Murium Disease in Turkeys.

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA

COUNTY OF RAMSEY

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

That on the 12th day of July, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of [Intent to Amend Rules Without Public Hearing] by depositing in the [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 amendment of rules by this State Agency.

W. J. Mackey D.V.M.

W. J. Mackey, D.V.M.
Assistant Secretary

Subscribed and sworn to before me
this 12 day of July, 1982.

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 Amendment
of Rules of the State Board of Animal
Health Governing LSB 33 Control of
Salmonella Typhi-Murium Disease in
Turkeys.

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 amendment of rules by this State Agency is accurate and complete as of 12:00 A.M., this 12th day of July, 1982.

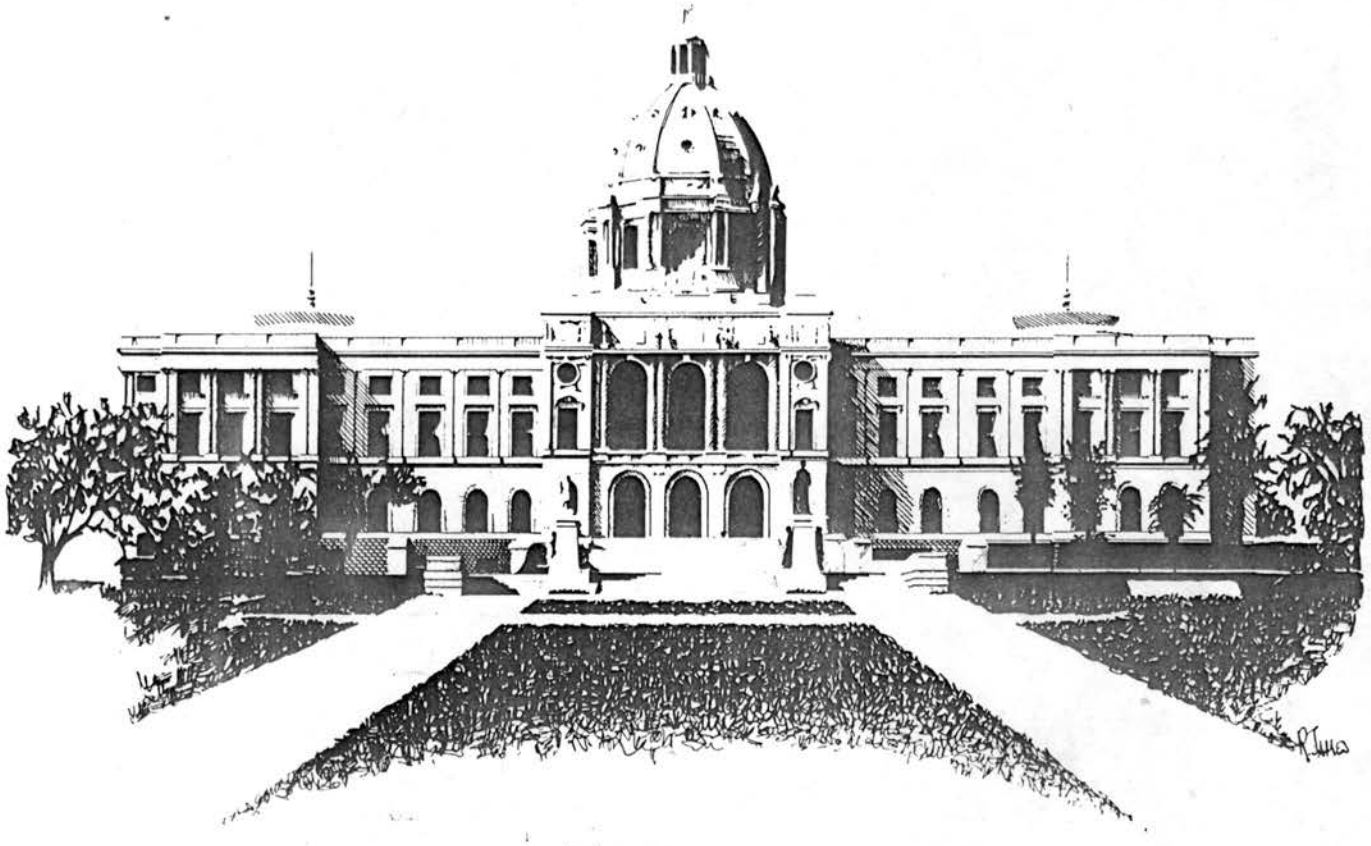
W. J. Mackey, D.V.M.
Assistant Secretary

3MCAR 2.062, 2.015, LSB 33, 2.032
Pg 1[illegible]-114,

Sol tuph

STATE REGISTER

STATE OF MINNESOTA



VOLUME 7, NUMBER 4

July 26, 1982

Pages 105-124

The rule proposed for amendment relates to the following matter: 3 MCAR § 2.015 Control of Bovine Paratuberculosis in Minnesota.

A copy of the proposed rule amendment is attached to this notice.

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

Rule as Proposed

~~LSB 15~~ 3 MCAR § 2.015 Control of bovine paratuberculosis in Minnesota.

(a) Definitions.

(1) Board means the ~~Minnesota State Livestock Sanitary~~ Board of Animal Health or its authorized agent.

(2) [Unchanged.]

(3) Herd means ~~any number of~~ all cattle ~~owned by one or more persons which are maintained on one or more premises and which associate with or contact one another or are cared for by the same personnel~~ under common ownership or supervision that are grouped on one or more parts of a single premises or all cattle on two or more premises geographically separated but on which the cattle have been interchanged or where there has been contact of cattle between the premises.

(4) [Unchanged.]

(5) Test and testing means the cervical intradermic injection of Johnin and palpation of the injection site 48 hours after the injection or the intravenous injection of Johnin with recording of post injection temperatures by a veterinarian ~~of the Board or USDA~~, or smears of rectal scrapings or fecal samples for culturing submitted to an official laboratory by a veterinarian for evaluation or other tests as approved by the board.

(6)-(9) [Unchanged.]

(b) General requirements.

(1) and (2) [Unchanged.]

(3) Testing:

(aa)-(cc) [Unchanged.]

(dd) Tests involving the use of Johnin will be conducted only by veterinarians ~~of the Board or USDA~~. Rectal scrapings, fecal smears, or fecal samples for culturing may be secured and submitted to official laboratories by ~~an accredited~~ a veterinarian.

(ee) and (ff) [Unchanged.]

(4)-(7) [Unchanged.]

Board of Animal Health

Proposed Amendment of Rules Governing Control of Salmonella Typhi-Murium Disease in Turkeys (LSB 33)

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the State Board of Animal Health proposes to amend the above-entitled rules without a public hearing. The board has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

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.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Attention Dr. W. J. Mackey
State Board of Animal Health
LL70 Metro Square Building
St. Paul, MN 55101

Authority for the amendment of these rules is contained in Minnesota Statutes § 35.03 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Dr. W. J. Mackey upon request.

Upon amendment of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as amended will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for amendment, should submit a written statement of such request to Dr. W. J. Mackey.

The rules proposed for amendment relate to the following matters: LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys.

A copy of the proposed rule amendment is attached to this notice.

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

Rules as Proposed

3 MCAR § 2.032 Control of Mycoplasma in poultry.

A.-B. [Unchanged.]

C. Flock participation requirements.

1.-4. [Unchanged.]

5. All ~~turkeys in the flock, whether or not sampled,~~ birds from which a blood sample is collected shall be identified with an official leg or wing band or other acceptable identification approved by the board. ~~The bands or other acceptable identification can be applied~~ at the time the ~~turkey~~ blood samples are collected ~~or at some prior time. All sampled birds in chicken and other poultry flocks shall be identified with an official leg or wing band approved by the Board at the time the samples are collected.~~

6. [Unchanged.]

D.-M. [Unchanged.]

LSB 33 Control of Salmonella Typhi-Murium disease in turkeys. Pursuant to Minnesota Statutes ~~1969~~, sections 35.03 and 15.0412, and ~~chapter 8, Session~~ Laws of 1969 ch. 8, the Livestock Sanitary Board hereby adopts the following rules and regulations:

(a)-(d) [Unchanged.]

(e) Testing.

(1)-(3) [Unchanged.].

(4) All birds ~~in the flock, whether or not sampled,~~ from which blood samples and fecal swabs are collected shall be identified with an official leg or wing band or other acceptable identification approved by the board at the time the ~~blood samples and fecal swabs are collected or prior to the sampling during the process of selection~~ collections are made.

(5) and (6) [Unchanged.]

(f)-(l) [Unchanged.]

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys

FINDINGS OF FACT AND CONCLUSIONS

The following facts relate to amendment of LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys:

The agency determined that the amendment was non-controversial and elected to adopt the amendment without a public hearing pursuant to Minnesota Statute 15.0412, Subdivision 4h.

The Board of Animal Health authorized by resolution signed July 9, 1982, Notice of Intent to Amend LSB 33 without hearing.

Notice of Intent to Amend LSB 33 without hearing was mailed to all persons on the agency list on July 12, 1982.

Notice of Intent to Amend LSB 33 without hearing was published in State Register Volume 7, Number 4, July 26, 1982, Pages 111 and 112.

No comments concerning the proposed amendment to LSB 33 were received.

No requests for hearing on the proposed amendment to LSB 33 were received during the 30 day period following publication in the State Register.

The Board of Animal Health on October 15, 1982, adopted the amendment as published in the State Register with no changes.

No persons requested notice of the date upon which the adopted rules were submitted to the Attorney General for review.

Therefore, the Board of Animal Health concludes that:

All procedural requirements of Minnesota Statutes 15.0412 have been met.

The amendment is in the best interest of the livestock industry, the public and the State of Minnesota.



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

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Dr. Robert L. Mersch, do hereby certify that I am a member and the President 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 October, 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 minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes Section 35.03, 1980 and that Dr. J. G. Flint, the Secretary and Executive Officer 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 15 day of October, 1982.

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

Attest by one other Board member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed
Amendment to LSB 33 Control of
Salmonella Typhi-Murium Disease
in Turkeys

STATEMENT OF NEED AND REASONABLENESS

There is a need to amend the rule in order to adjust identification requirements for turkey breeding flocks tested under poultry disease control programs from identifying all birds in the flock to identifying only those birds tested. At one time, all turkeys in a breeding flock were tested and the rule provided that each bird in the flock be identified with a leg or wing band. This identification procedure was also a national program requirement. In 1971 the rule was amended to provide for testing only 500 birds in each breeding flock. The turkey industry supported continuance of identifying each bird in the flock, whether or not tested, because there was considerable movement of breeding flocks from farm to farm and the numbered bands furnished the hatchery a means for keeping count of the number of birds in each flock. Now the turkey breeding industry has stabilized and flocks are usually maintained on the premises where tested for the entire egg laying cycle. Hatcheries have found other alternatives for keeping flock bird count. National program provisions have been amended to leave participating flock identification to the discretion of each state. Approximately 600,000 turkey breeders are maintained each season in approximately 160 flocks.

The proposed amendment will not jeopardize the disease control capabilities of the state and it will mean a considerable saving to the poultry industry.

Adoption and need for the amendment falls within the authority of M.S. §§ 35.03 (1980).

J. G. Flint, DVM
Secretary and Executive Officer

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys

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 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.

Jon Murphy
(Special Assistant Attorney General)

DATED: 10/21/82

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing LSB 33 Control of Salmonella Typhi-Murium Disease in Turkeys

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, October 18, 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 14 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 publication in the State Register and before submission to the Attorney General, you may contact Dr. W. J. Mackey, Board of Animal Health (612) 296-3592.

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