

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Board of Animal Health

Adopted Rules Governing Official Identification Tags and Brands (3 MCAR S 2.062)

Rules as Adopted

3 MCAR S 2.062 Official identification tags and brands.

A. Definition. For the purposes of this rule, "official identification tag" means a metal identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System, contained in chapter 1, part I, paragraph M, of the Brucellosis Eradication Uniform Methods and Rules, May 1, 1982 edition, issued by the United States Department of Agriculture. It provides unique identification for each individual animal.

B. Sale and application. Official identification tags may be sold only to veterinarians accredited under Code of Federal Regulations, title 9, section 160.1(d.), and may be applied only by or under the direct supervision of an accredited veterinarian. This requirement does not apply to official identification tags issued to artificial insemination technicians, identified as 41XAA through 41XZZ, or issued to the Dairy Herd Improvement Association, identified as 41WAA through 41WZZ.

C. Other tags prohibited. Every person applying eartags to cattle for purposes of compliance with rules of the Board of Animal Health shall use official identification tags.

D. Animals with existing tags. When an animal is already identified by an official identification tag, that tag number must be recorded for official records and another official identification tag may not be applied, except when the owner of an animal already identified by an official identification tag wants the animal identified by an official vaccination identification tag at the time of the animal's vaccination against brucellosis.

E. Removal prohibited; exception. No person may remove

official identification tags, market cattle testing tags, or leg bands, or efface brands approved and registered by the Board of Animal Health under Minn. Stat. S 35.822, except that market cattle testing tags may be removed by a veterinarian securing a blood sample for a brucellosis test.

Repealer. Rule LSB 62 of the Board of Animal Health is repealed.

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Board of Animal Health AR0221

Division:

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

Rule Numbers: 3 MCAR S 2.062

Title: Adopted Rules Governing Official Identification Tags and Brands

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
3 MCAR S 2.062 A.	National Uniform Eartagging System, Chapter 1, part 1, paragraph M, of Brucellosis Eradication Uniform Methods and Rules

Duplication of Statutory Language:

Rule Number:	Statutory Section Duplicated:

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

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
Joan Anderson Growe
Secretary of State
11:15AM

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, Special Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Amendment of Rules of State Board of Animal Health Governing 3 MCAR § 2.062 Official Identification Tags and Brands

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. 862

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

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
_____ 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

? _____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness - does not explain that existing rule is repealed, new rule replaces existing rule on same subject

_____ 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
submitted but not necessary — no requests rec'd — See FofF

ADMIN 1000 (Rev. 1/78)

DEPARTMENT REVISOR OF STATUTES

STATE OF MINNESOTA

Office Memorandum

Rule 25 ADOPTED

TO : DR. W.J. MACKEY, D.V.M.
BOARD OF ANIMAL HEALTH

DATE: July 26, 1982

FROM : BARBARA MOEHRLE
RULES SUPERVISOR

Barb Moehrle

PHONE: 6-7145

SUBJECT: PROPOSED RULES, STRIPPED COPY

Enclosed is a stripped copy of your rules as proposed in the State Register. The copy shows the text of the rules as you proposed them in the State Register with the stricken text deleted and the underscoring, which indicates new text, taken off.

Please use this copy to indicate any modifications you wish made when you adopt the rules. Our office would be happy to input the changes on our computer, and turn out copies for you to submit for final approval to our office and the Attorney General. If you adopt your proposed rules without modifications, please submit this copy to the Revisors Office on the same day you submit your rules as adopted to the Attorney General.

Rule 3 MCAR S 2.062 was proposed July 26, 1982 at 7 SR 109.

Rule 3 MCAR S 2.015 was proposed July 26, 1982 at 7 SR 110.

Rules 3 MCAR S 2.032 and LSB 33 were proposed July 26, 1982 at 7 SR 111 and 7 SR 113.

The copies of the drafts from our office have not been proofed against what was actually published in the State Register.

7-27-82
HCO

AR0231
AR0221
AR0228
BCM

Dr Olson, Dr Flint, Dr Keller

"Will you please go over the rules you are involved with and make sure they are correct."

W.J.M.

2.062 O.K.
2.015 O.K.

RULE AS PROPOSED

MINNESOTA LEGISLATURE

REVISOR OF STATUTES
STEVEN C. CROSS

DEPUTY REVISORS
ANN L. BATESON
WARD P. GRONFIELD
HARRY M. WALSH

SENIOR ASSISTANT REVISORS
ROBERT P. KITTEL
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CRAIG E. LINDEKE
PAUL M. MARINAC
JANET C. RAHM
ELIZABETH V. RICE
ANDREA G. WHITE

OFFICE OF THE REVISOR OF STATUTES

☐ STATE CAPITOL, ROOM 3 ☒ STATE OFFICE BUILDING, ROOM 670
ST. PAUL, MINNESOTA 55155

(612) 296-2868

ADMINISTRATIVE ASSISTANT
LEONA R. LEWIS

ASSISTANT FOR WRITING STANDARDS
MARYANN Z. CORBETT

DATA SYSTEMS COORDINATOR
SUSAN M. SHOCKLEY

DATA SYSTEMS MANAGER
ROBERT L. McCLUNG

SENIOR SYSTEMS ANALYSTS
THOMAS M. KLEIN
CLAYTON LARSON

SUPERVISORS
ELEONORE G. ANDERSON
MARJORIE E. JORGENSEN
BARBARA C. MOEHRLE
MARCIA A. WALDRON

June 16, 1982

Dr. W.J. Mackey, D.V.M.
Board of Animal Health
LL-70 Metro Square Bldg.

Dear Dr. Mackey:

We are enclosing preliminary copies of your rule request relating to official identification tags and brands.

If you want to make any changes, please return a copy with your instructions for redrafting.

If you have any questions, please do not hesitate to call.

Very truly yours,

Craig E. Lindeke

Craig E. Lindeke
Assistant Revisor

CEL/rr
Enclosure
RD221

Rule as Proposed (all new material)

3 MCAR S 2.062 Official identification tags and brands.

A. Definition. For the purposes of this rule, "official identification tag" means a metal identification eartag conforming to the nine-character alpha-numeric National Uniform Eartagging System, contained in chapter 1, part I, paragraph M, of the Brucellosis Eradication Uniform Methods and Rules, May 1, 1982 edition, issued by the United States Department of Agriculture. It provides unique identification for each individual animal.

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D. Animals with existing tags. When an animal is already identified by an official identification tag, that tag number must be recorded for official records and another official identification tag may not be applied, except when the owner of an animal already identified by an official identification tag wants the animal identified by an official vaccination identification tag at the time of the animal's vaccination against brucellosis.

E. Removal prohibited; exception. No person may remove official identification tags, market cattle testing tags, or leg bands, or efface brands approved and registered by the Board of Animal Health under Minn. Stat. S 35.822, except that market cattle testing tags may be removed by a veterinarian securing a blood sample for a brucellosis test.

Repealer. Rule LSB 62 of the Board of Animal Health is repealed.

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing 3 MCAR § 2.062 Official Identification Tags and Brands

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 publis 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 3 MCAR § 2.062 Official Identification Tags and Brands are adopted 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

J. G. Flint, D.V.M.
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 § 2.062 Official Identification Tags and Brands.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 12th day of July, 1982 that a Notice of Intent to Adopt 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.

STATE OF MINNESOTA
BOARD OF ANIMAL HEALTH

J. C. 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 3 MCAR § 2.062 Official Identification Tags and Brands 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, 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 15th day of October, 1982.

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

Attest by one other Board member

Department of Board of Animal Health

In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.062 Official Identification Tags and Brands.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Board of Animal Health proposes to adopt the above-entitled rules without a public hearing. The Board has determined that the proposed adoption 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:

Dr. W. J. Mackey
State Board of Animal Health
LL70 Metro Square Building
7th and Robert Streets
St. Paul, MN 55101

Authority for the adoption 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 adoption 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 Adopted 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 adoption, should submit a written statement of such request to Dr. W. J. Mackey.

[A copy of the proposed rules is attached to this Notice.]

STATE OF MINNESOTA

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

In the Matter of the Proposed Adoption of Rules of the State Board of Animal Health Governing 3 MCAR § 2.062 Official Identification Tags and Brands.

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 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.

W. J. Mackey, D.V.M.
Assistant Secretary
Board of Animal Health

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 Adoption
of Rules of the State Board of Animal
Health Governing 3 MCAR § 2.062 Official
Identification Tags and Brands.

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 12th day of July, 1982.

W. J. Mackey, DVM

W. J. Mackey, D.V.M.
Assistant Secretary
Board of Animal Health

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendment of Rules of the State Board of Animal Health Governing 3 MCAR § 2.062 Official Identification Tags and Brands

FINDINGS OF FACT AND CONCLUSIONS

The following facts relate to amendment of 3 MCAR § 2.062 Official Identification Tags and Brands:

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 3 MCAR § 2.062 without hearing.

Notice of Intent to Amend 3 MCAR § 2.062 without hearing was mailed to all persons on the agency list on July 12, 1982.

Notice of Intent to Amend 3 MCAR § 2.062 without hearing was published in State Register Volume 7, Number 4, July 26, 1982, Pages 115 and 116.

One comment concerning the proposed amendment to 3 MCAR § 2.062 was received. This comment supported the proposed amendment. No adverse comments were received.

No requests for hearing on the proposed amendment to 3 MCAR § 2.062 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

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 adopt without a public hearing rules governing 3 MCAR § 2.062 Official Identification Tags and Brands, 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

Attest by one other Board member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of Proposed
Amendment to 3 MCAR § 2.062
Official Identification Tags and Brands

STATEMENT OF NEED AND REASONABLENESS

The rule needs to be amended to bring it up to date, the last amendment having been made in 1970. An official tag is defined the same as in the federal brucellosis regulations and will include official tags from any and all states. The rule provides that official tags shall be sold only to accredited veterinarians and shall be applied only by or under the direct supervision of an accredited veterinarian which will prohibit misuse of official tags by unauthorized persons. The rule prohibits the removal of official tags so that herd of origin may be determined when necessary in the control and/or eradication of disease. The provisions of the rule pertaining to sale and application of official tags do not apply to official tags issued to the Dairy Herd Improvement Association or to artificial breeding associations.

The proposed amendment increases the disease control capability of the rule. It will not increase the cost to the livestock industry.

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

J. G. Flint, D.V.M.
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 3 MCAR § 2.062 Official Identification Tags and Brands

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 3 MCAR § 2.062 Official Identification Tags and Brands

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 Adminstration 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