

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1380
DATE RECEIVED 6/29/87
REVIEW DATE 7/8/87
DUE DATE 7/13/87

APPROVED 7-8-87 mjc
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0098
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~

~~Date published in State Register~~

~~Comments~~

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

35.03 Statutory Authority

no Small Business Statement

no Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness

yes Small Business Statement

n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

3/25/87 Date (30)/25 days before adoption

✓ Publication in State Register

3/30/87 Date (30)/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting

6/26/87 Date

✓ Written ~~requests~~, ~~submissions or~~ comments

✓ Declaration of attorney

Paul Strandberg Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : July 10, 1987

TO : Keith Friendshuh, DVN
Veterinarian in Charge
Miscellaneous Diseases Division

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Control of Rabies in Minnesota

The above-referenced rule has been approved as to its legality by the Attorney General on July 8, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Board of Animal Health

Adopted Permanent Rules Relating to Control of Rabies in Minnesota

Rules as Adopted

1705.1090 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Positive rabies case.** "Positive rabies case" means an animal showing signs associated with rabies that are observed and reported to the board by a veterinarian, or an animal diagnosed as positive for rabies by a recognized laboratory, or both.

Subp. 6. **Rabies specimen.** "Rabies specimen" means that part of an animal or an entire animal submitted for rabies examination.

Subp. 6a. **Under the supervision of a veterinarian.** "Under the supervision of a veterinarian" means that a veterinarian is on the premises.

Subp. 7. **Vaccinated.** "Vaccinated" means an animal immunized for rabies by or under the supervision of a licensed veterinarian with a vaccine licensed by the United States Department of Agriculture and used in accordance with the label approved by USDA taking into consideration the duration period of immunity set forth for the vaccine. The National Association of State Public Officials annually publishes a booklet entitled Compendium of Animal Rabies Vaccines which lists all vaccines approved and licensed by the USDA and the duration of immunity for each vaccine. The board shall maintain current editions of this compendium which are available to the public upon request.

Subp. 8. **Veterinarian.** "Veterinarian" means a licensed graduate of a veterinary college, who is accredited by the United States Department of Agriculture.

1705.1120 INVESTIGATION OF POSITIVE RABIES CASE.

All known positive cases of rabies shall be investigated by

a veterinarian employed by the board or the Animal and Plant Health Inspection Service, United States Department of Agriculture. The results of each investigation shall be submitted on forms furnished by the board.

1705.1130 ANIMALS BITTEN OR EXPOSED BY RABID ANIMAL.

Animals determined by the veterinarian to be bitten or otherwise exposed by a rabid animal shall be humanely euthanized or quarantined in an animal-tight enclosure constructed so that the animal cannot escape and to prevent the animal from biting or coming in contact with persons or other animals. The quarantine period is for six months unless conditions in part 1705.1175 or 1705.1180 are met.

1705.1145 ANIMAL RABIES VACCINES.

Because of techniques and tolerances, species limitations, and public health implications, animal rabies vaccines may only be administered by or under the supervision of a veterinarian.

1705.1170 VETERINARIAN'S INSPECTION REPORT.

Quarantines established on animals under these rules will not be released until a written report is received by the board from a veterinarian stating he has inspected the animals, and no signs of rabies were observed.

1705.1175 RELEASE OF QUARANTINE ON DOGS AND CATS.

Dogs and cats may be released from quarantine after 40 days under the conditions in items A to C.

A. The animal must have been vaccinated for rabies at least 21 days before exposure.

B. The animal must have been revaccinated for rabies immediately after exposure. The 40-day period begins on the date of the revaccination.

C. The written report required in part 1705.1170 must be received by the board.

1705.1180 RELEASE OF QUARANTINE ON DOMESTICATED FARM ANIMALS.

Quarantines established on domesticated farm animals other

than dogs and cats because of rabies exposure may be released upon request after 90 days have elapsed from date of exposure if:

A. no new cases of rabies have developed on the premises; and

B. a written report is submitted to the board by a veterinarian stating he has inspected all animals on the premises and that no animals are showing signs of rabies.

1705.1190 AREA PROCLAMATION AND QUARANTINE.

When an investigation reveals that rabies exists and presents imminent danger of an epidemic, and it is necessary to control the outbreak and prevent the spread of the disease, the executive secretary of the board shall make and file a proclamation and establish a quarantine to include any territory in the state.

1705.1210 PERMIT FOR REMOVAL OF DOGS.

Special permits may be issued by the executive secretary of the board for removal of dogs from a quarantined area to other points in Minnesota. The permits will be granted only if: (1) the dog has been vaccinated for rabies at least 21 days before the quarantine proclamation under part 1705.1190; (2) there is no evidence of exposure to a rabid animal; and (3) the dog will be quarantined for 40 days at its new destination.

Removal of dogs from a quarantined area in Minnesota to other states will require prior approval from disease control officials in the state of destination.

REPEALER. Minnesota Rules, parts 1705.1140, 1705.1150, and 1705.1160 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL - 9 1987
Joan Anderson Growe
Secretary of State 9:05 AM

APPROVED AS TO FORM AND LEGALITY
July 8 19 87
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassellius
SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Mr. Herbert Halvorson, 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 7th day of November, 1986, 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. T. J. Hagerty, Executive Secretary 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 Control of Rabies in Minnesota, 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 7th day of November, 1986.

Herbert Halvorson

(Officer of the Board)

Sharon D. Hurley

Attest by one other Board member

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(Officer of the Board)

Thomas J. Hurley

Attest by one other Board member

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(Officer of the Board)

Sharon A. Hurley

Attest by one other Board member

Board of Animal Health

Proposed Permanent Rules Relating to Control of Rabies in Minnesota

Rules as Proposed

1705.1090 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Positive rabies case.** "Positive rabies case" ~~shall mean any~~ means an animal showing ~~symptoms commonly~~ signs associated with rabies ~~which~~ that are observed and reported to the board by a veterinarian, or ~~any~~ an animal diagnosed as positive for rabies by a recognized laboratory, or both.

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Approved by Revisor

1705.1120 INVESTIGATION OF POSITIVE RABIES CASE.

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1705.1170 ~~RELEASE OF QUARANTINE~~ VETERINARIAN'S INSPECTION REPORT.

Quarantines established on ~~dogs and cats~~ animals under these rules will not be released ~~40 days after revaccination provided~~ until a written report is ~~submitted to~~ received by the board ~~by~~ from a veterinarian stating he has inspected the ~~dog or cat~~ animals, and no signs ~~or symptoms~~ of rabies were observed.

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B. The animal must have been revaccinated for rabies immediately after exposure. The 40-day period begins on the date of the revaccination.

C. The written report required in part 1705.1170 must be received by the board.

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Quarantines established on domesticated farm animals other than dogs and cats because of rabies exposure may be released upon request after 90 days have elapsed from date of exposure ~~provided~~ if:

A. no new cases of rabies have developed on the premises~~,~~; and ~~further provided~~

B. a written report is submitted to the board by a veterinarian stating he has inspected all animals on the premises and that no animals are showing signs ~~or symptoms~~ of rabies.

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REPEALER. Minnesota Rules, parts 1705.1140, 1705.1150, and 1705.1160 are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Control of Rabies in Minnesota

AGENCY: Board of Animal Health

MINNESOTA RULES: Chapter 1705

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

Board of Animal Health Proposed
Rules Governing the Control of
Rabies in Minnesota.

NOTICE OF INTENT TO AMEND 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 14.22 through 14.28 (1986). Authority for adoption of these rules is contained in Minnesota Statutes section 35.03 (1986).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and such comments are encouraged. Any person requesting a public hearing should state his or her name and address. Each comment should identify the portion of the rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if modifications are supported by data and views submitted to the agency and do not result in substantial change in the proposed language.

Unless 25 or more persons submit a written request for a public hearing on the proposed rule 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 14.131 through 14.20.

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

Keith A. J. Friendshuh, DVM
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107

Telephone: (612) 296-3428

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 supporting the proposed rules has been prepared and is available from Dr. Friendshuh 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 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 adopted should submit a written statement of such request to Dr. Friendshuh.

The rules proposed for adoption relate to the following matters:

The Control of Rabies in Minnesota

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

3-13-87
Dated

T. J. Hagerty, DVM
Executive Secretary
Board of Animal Health

Board of Animal Health

Proposed Permanent Rules Relating to Control of Rabies in Minnesota

Rules as Proposed

1705.1090 DEFINITIONS.

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Approved by Revisor CJ

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Quarantines established on domesticated farm animals other than dogs and cats because of rabies exposure may be released upon request after 90 days have elapsed from date of exposure ~~provided~~ if:

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REPEALER. Minnesota Rules, parts 1705.1140, 1705.1150, and 1705.1160 are repealed.

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STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

IN THE MATTER OF THE PROPOSED AMENDMENTS
TO RULES OF THE BOARD OF ANIMAL HEALTH
PARTS 1705.1090 THROUGH 1705.1210,
GOVERNING THE CONTROL OF RABIES IN MINNESOTA.

STATEMENT OF NEED
AND REASONABLENESS

Minn. Stats. §35.03 (1986) authorizes and requires the Minnesota Board of Animal Health (hereinafter referred to as the "Board") to adopt rules necessary to protect the health of Minnesota's domestic animals. The current rules of the Board provide for the control of rabies in Minnesota and include provision for the quarantine of rabies exposed animals. An early release of a quarantine on dogs or cats may be obtained provided the exposed animals have been vaccinated for rabies at least 21 days prior to exposure and revaccinated immediately after exposure. Minn. Rules Pt. 1705.1175. Such vaccinations must be performed by a licensed veterinarian with a vaccine approved by the Board. Minn. Rules Pt. 1705.1090, subd. 7.

The major change to the existing rules is a new requirement which will require that animal rabies vaccines only be administered by, or under the supervision of, a licensed veterinarian whether or not a quarantine exists. Such a requirement is not novel to the control of rabies but is an existing requirement for many other animal disease control programs. For example, under Minnesota's Brucellosis Disease Control Program, brucella vaccine may only be sold to and administered by veterinarians. Minn. Rules Pt. 1705.0260. Similarly, blood samples drawn to test for pseudorabies in hogs must be drawn only by accredited veterinarians. Minn. Rules Pt. 1705.2410. See also, Minn. Rules Pt. 1705.0920, (Herds Infected with Bovine Tuberculosis may only be tested by a full time regulatory veterinarian). The current rabies rule provides for the quarantine of animals bitten or exposed by a rabid animal. One procedure which may be utilized to release that quarantine when dogs and cats are involved is to assure that the exposed animal has been vaccinated at least 21 days prior to exposure and revaccinated after exposure. These vaccinations, under the rule, must be performed by a veterinarian. The proposed amendment in essence provides that all vaccinations, whether or not they are applied to a quarantined animal, must be performed by a licensed veterinarian.

The United States Department of Agriculture, Animal and Plant Health Inspection Service, has the authority to restrict the use of any biological product to use only by veterinarians or under the supervision of veterinarians. Title 9, CFR Part 102.5. The Department of Agriculture has not placed that restriction upon the labels for rabies vaccination biological products. What it has done, is to require that distribution of such products in each state be limited to authorized recipients designated by proper state officials, under such additional conditions as those authorities may require. See Attachment "A", "Veterinary Services Biologics Notice", dated February 20, 1980. Thus, the Federal Animal Health authorities have recognized and authorized the officials of each state to determine how each of the biological rabies products may be distributed in the state and has recognized that each state has the authority to restrict rabies vaccine use by a veterinarian or under the direction of a veterinarian without conflict under the federal law. See Exhibit A, attached hereto.

The Minnesota Board of Animal Health believes it to be in the best interest for the health and welfare of Minnesota's domestic animals to exercise this authorized authority and require that rabies vaccinations only be administered by or under the supervision of a licensed veterinarian.

Vaccination of animals is a key element in any rabies control program in the United States. The success of such a control program requires that a high percentage of animals be vaccinated; that the vaccines used be safe and effective; that the vaccines be properly stored and administered; and that an adequate system of identification and recordkeeping be maintained to assure that animals are re-vaccinated at the proper intervals to maintain immunity. In the past, national organizations, such as the National Association of State Public Health Veterinarians and the American Veterinary Medical Association Council of Biologics and Therapeutic Agents have gone on record in favor of placing restrictions on the distribution and use of rabies vaccines as a means of strengthening rabies control procedures. Such requests have also been endorsed by the United States Animal Health Association Rabies Committee, the American Veterinary Medical Association Council on Public Health and Regulatory Medicine and the Conference of State and Territorial Epidemiologists.

At the current time, modified live rabies vaccines are restricted to use only by a veterinarian while inactivated rabies vaccines can presently be obtained by pet and animal owners through over-the-counter purchases for use in the vaccination of their own animals. Such use by untrained lay personnel could result in vaccinated animals not being properly immunized because the vaccine used has lost potency from improper handling and storage or because vaccine was not properly administered. Use of rabies vaccines by lay personnel also results in a lack of proper records to assure animals are revaccinated at the appropriate intervals. Also, some rabies vaccines can actually cause rabies if given to the wrong species of animals or if given at the wrong injection site. These problems would be avoided if rabies vaccines were available only to veterinarians who by professional training are knowledgeable in their use. Veterinarians are trained in the correct handling and administering of vaccines. Improper procedures will not give proper immunity. The vaccine must be given at the correct age and must be boostered at the right time; the vaccine must be given at the correct injection site; and the vaccine must be handled properly to prevent deterioration. In addition, vaccination of improper species (skunks, ferrets and other "wild" pets) by the public may lead to a false sense of security. No vaccine is approved to be used in "wild" species. If an owner vaccinated one of these species and is later bitten, he may not seek medical attention because his pet was presumably "vaccinated". Restrictions on the use of vaccines will avoid these concerns.

Another fear expressed by the Minnesota Health Department was that if someone was exposed to rabies they could use these animal vaccines on themselves instead of getting the approved human diploid vaccine from their doctor. The animal vaccine could be purchased for under $25.00 while the M.D. would charge $500 - $1,000 for the proper vaccine.

An additional reason for restriction is the need to complement the provisions of Minn. Stat. §346.51. This section provides:

> An owner or custodian of a dog which does not have an appropriate anti-rabies vaccination and which bites or otherwise exposes a person to rabies virus may be penalized under §346.53.

Section §346.53 provides for petty misdemeanor penalties for violation of §346.51. The term "Appropriate anti-rabies vaccination" is not defined in the statute. Thus, there is presented a great deal of confusion as to what type of vaccination will satisfy the statutory requirements. An "official vaccinate", is defined in the current rule in Pt. 1705.1090, subd. 7, which provides that "vaccinated" means an animal vaccinated for rabies by a licensed veterinarian with a product approved by the Board. The proposed amendment restricting the use of rabies vaccines to use only by veterinarians will assure compliance with §346.51 without creating difficult factual issues for a court to resolve regarding the terms contained therein and whether a particular animal is effectively vaccinated. In addition, proper recordkeeping, identification and certification would be assured.

The remaining changes to the current rule are basically changes in grammar and clarification of terms rather than substantial changes. Primary changes are summarized as follows:

Pt. 1705.1090, Subd. 7:

All biological products which are approved for use in the United States are licensed by the United States Department of Agriculture. Lists of such products which have been approved and licensed by the Department of Agriculture along with indications of the period or duration of the immunity provided by such products is routinely compiled in the "Compendium of Animal Rabies Vaccines, 1986", which is prepared by the National Association of State Public Health Veterinarians, Inc. Thus, the Board felt it would be helpful to assure that the Board maintains a current issue of that Compendium to provide information to veterinarians and the public with respect to what biological products have been approved by the USDA and their period of duration. The Board found it unnecessary to define the "Compendium" as provided by under the current rule but merely to provide a reference to that Compendium advising the public that it is available upon request from them.

Pts. 1705.1140, 1705.1150 and 1705.1160:

These parts are deleted and reinstated in Pts. 1705.1175 and 1705.1180. Thus, the language proposed for Pts. 1705.1175 and 1705.1180 are not new requirements but rather, a recodification of the current rule.

Pt. 1705.1190:

This part provides for the issuance of rabies proclamations and basically repeats the language of Minn. Stat. §35.68. The Board believes the new language provides clarification and guidelines regarding the issuance of such proclamations.

Pt. 1705.1210:

The proposed changes provide clarification of the conditions under which permits for the removal of quarantined dogs will be raised. Such criteria were lacking under the current rule.

In assessing the economic impact of the proposed changes, the Board is aware that the requirement that vaccines be administered only by or under the supervision of licensed veterinarians may increase the cost of such vaccinations to a few animal owners. That cost, however, is felt by the Board to be minimal in view of the

safeguards which will be provided through official, professional vaccinations. The Board has also determined that there will be no additional expenditures of public money by local public bodies because of the rule changes nor will there be any adverse impact on agricultural land in Minnesota. In addition, the Board considered its effect upon small businesses. To the extent Minnesota's livestock enterprises are considered "small businesses" for purposes of Minn. Stat. §14.115, the proposed rule change may have a slight cost factor in the event a livestock owner desires to vaccinate animals. The cost, however, is minimal and the establishment of less stringent compliance standards for such businesses would be contrary and inconsistent with the purposes of the rabies disease control program.

Date: March 12, 1987

T. J. Hagerty, DVM
Executive Secretary
Board of Animal Health

United States Department of Agriculture
Animal and Plant Health Inspection Service
Federal Bldg.
Hyattsville, MD 20782

February 20, 1980

VETERINARY SERVICES BIOLOGICS NOTICE

Subject: Distribution of Rabies Vaccine, Brucella Abortus Vaccine, Brucella Abortus Antigen, and Tuberculin-PPD Bovis

EXHIBIT "A"

To : Biologics Licensees
State Veterinarians
Regional Directors
Regional Biologics Specialists
Area Veterinarians in Charge
National Veterinary Services Laboratories
Staff Veterinarians
State Public Health Veterinarians

On September 21, 1979, a notice was published in the Federal Register at 44 FR 54737 requesting comments on proposed actions that would provide additional controls on the distribution of certain products under the provisions of Title 9, CFR Part 102.5(e).

Comments on this notice have been considered and all U.S. Veterinary Biological Product Licenses for Rabies Vaccine, Brucella Abortus Vaccine, Brucella Abortus Antigen, and Tuberculin-PPD Bovis have been amended by addition of the following condition:

"Distribution in each State shall be limited to authorized recipients designated by proper State officials--under such additional conditions as these authorities may require."

This action will require licensees for these products to contact the proper officials of each State to determine how each of these products may be distributed. Each State has the authority to restrict the distribution of these products in accordance with local needs, including the authority to restrict Rabies Vaccine to use by a veterinarian only or to use by or under the direction of a veterinarian only, if desired.

The above condition has been added to U.S. Veterinary Biological Product Licenses for the following products:

Code	Product and Form	License Numbers of Producers
1251.00	Brucella Abortus Vaccine, Strain 19, Live Culture	52, 107, 188
1251.01	Brucella Abortus Vaccine, Strain 19, Live Culture	188
1575.80	Feline Panleukopenia-Rabies Vaccine, Killed Virus, Cell Line and Murine Origin	266
1901.03	Rabies Vaccine, Modified Live Virus, Tissue Culture Origin, High Cell Passage, SAD Strain	107, 124, 264
1901.05	Rabies Vaccine, Modified Live Virus, Tissue Culture Origin, High Cell Passage, SAD Strain	124
1901.22	Rabies Vaccine, Modified Live Virus, Cell Line Origin, High Egg Passage, Flury Strain	189
1901.23	Rabies Vaccine, Modified Live Virus, Cell Line Origin, High Cell Passage, SAD Strain	107
1905.00	Rabies Vaccine, Killed Virus, Tissue Culture Origin	107
1905.20	Rabies Vaccine, Killed Virus, Cell Line Origin	225, 227
1905.51	Rabies Vaccine, Killed Virus, Murine Origin	266
1905.55	Rabies Vaccine, Killed Virus, Murine Origin	266
5011.00	Brucella Abortus Antigen, Stained Antigen	107
5302.00	Tuberculin, PPD Bovis, Intradermic	107

M. J. Tillery
Director
National Program Planning Staffs
Veterinary Services

STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments to Rules of the Board of Animal Health Governing Parts 1705.1090 thru 1705.1210 The Control of Rabies in Minnesota.

AFFIDAVIT OF MAILING

1. I am Keith A. J. Friendshuh, DVM, employed by the Minnesota Board of Animal Health in charge of Poultry and Miscellaneous Diseases (Including Rabies).

2. On March 25, 1987, I supervised the mailing of the "Notice of Intent to Amend Rules of the Board of Animal Health without a Public Hearing" to all persons who registered with the Board of Animal Health to receive such notices, to all dog kennels licensed with the Board of Animal Health and to the Minnesota Purebred Dog Breeder's Association.

3. A Summary of the Rule and a request for comments was also sent to all veterinarians licensed in Minnesota in the January, 1987 Board of Animal Health Newsletter and I presented the same at the Minnesota Veterinary Medical Association annual meeting, February 7, 1987.

4. The same notice was published in the State Register March 30, 1987.

5. All Notices were sent by United States mail from St. Paul, Minnesota on March 25, 1987 and each notice included a copy of the proposed amendments to parts 1705.1090 thru 1705.1210.

Keith A. J. Friendshuh, DVM

Keith A. J. Friendshuh, DVM
BOARD OF ANIMAL HEALTH

Subscribed and sworn to before me
this 25 day of March, 1987.

Marian L Comford

MARIAN L. COMFORD
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 29, 1993

STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments
to Rules of the Board of Animal Health
Governing Parts 1705.1090 thru 1705.1210
The Control of Rabies in Minnesota

I certify that the attached copy is a true and exact copy of the mailing list used to mail the Notice of Intent to Adopt Rules of the Board of Animal Health without a public hearing, Parts 1705.1090 thru 1705.1210 Governing the Control of Rabies in Minnesota.

Keith A. J. Friendshuh, DVM
BOARD OF ANIMAL HEALTH

Dated: 3/25/87

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Judith G. Schotzko
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Legislative Commission on Review of Admin. Rules
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VanHooser & Olsen,
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STATE OF MINNESOTA
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Board of Animal Health

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STATE OF MINNESOTA

STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



Monday 30 March 1987

VOLUME 11, NUMBER 39

Pages 1765-1812

mission may consult with the Governor at his request and may provide him with any other information gathered by the commission during its deliberations.

If a vacancy occurs in the office of a judge in the same district for which the Governor filled a judicial vacancy within the past six months, and if the commission provided recommendations to the Governor for the prior judicial vacancy, then the Governor may elect to consider again the names submitted for the prior judicial vacancy as if those names had been submitted for the pending judicial vacancy. If the Governor so elects, he shall so inform the chair as soon thereafter as possible.

Pursuant to Minnesota Statutes, Section 4.035, subd. 2, this Order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1986, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this twelfth day of March, 1987.



RUDY PERPICH
Governor

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Animal Health

Proposed Permanent Rules Relating to Control of Rabies in Minnesota

Notice of Intent to Amend 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

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.

procedures set forth in Minnesota Statutes section 14.22 through 14.28 (1986). Authority for adoption of these rules is contained in Minnesota Statutes section 35.03 (1986).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and such comments are encouraged. Any person requesting a public hearing should state his or her name and address. Each comment should identify the portion of the rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if modifications are supported by data and views submitted to the agency and do not result in substantial change in the proposed language.

Unless 25 or more persons submit a written request for a public hearing on the proposed rule 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 14.131 through 14.20.

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

Keith A. J. Friendshuh, DVM
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107
Telephone: (612) 296-3428

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 supporting the proposed rules has been prepared and is available from Dr. Friendshuh 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 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 adopted should submit a written statement of such request to Dr. Friendshuh.

The rules proposed for adoption relate to the following matters:

The Control of Rabies in Minnesota

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

Dated: 13 March 1987

T. J. Hagerty, DVM, Executive Secretary
Board of Animal Health

Rules as Proposed

1705.1090 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Positive rabies case.** "Positive rabies case" ~~shall mean any~~ means an animal showing ~~symptoms commonly~~ signs associated with rabies ~~which~~ that are observed and reported to the board by a veterinarian, or ~~any~~ an animal diagnosed as positive for rabies by a recognized laboratory, or both.

Subp. 6. **Rabies specimen.** "Rabies specimen" ~~shall mean~~ means that part of an animal~~, usually the head,~~ or an entire animal submitted for rabies examination.

Subp. 6a. **Under the supervision of a veterinarian.** "Under the supervision of a veterinarian" means that a veterinarian is on the premises.

Subp. 7. **Vaccinated.** "Vaccinated" ~~shall mean~~ means an animal ~~vaccinated~~ immunized for rabies by or under the supervision of a licensed veterinarian with a ~~product approved by the board~~ vaccine licensed by the United States Department of Agriculture and used in accordance with the label approved by USDA taking into consideration the duration period of immunity set forth for the vaccine. The National Association of State Public Officials annually publishes a booklet entitled Compendium of Animal Rabies Vaccines which lists all vaccines approved and licensed by the USDA and the duration of immunity for each vaccine. The board shall maintain current editions of this compendium which are available to the public upon request.

Subp. 8. **Veterinarian.** "Veterinarian" ~~shall mean~~ means a licensed graduate of a ~~recognized~~ veterinary college ~~approved by the board and~~, who is accredited by the United States Department of Agriculture.

1705.1120 INVESTIGATION OF POSITIVE RABIES CASE.

All known positive cases of rabies shall be investigated by a veterinarian employed by the board or the Animal ~~Disease Eradication Division~~ and Plant Health Inspection Service, United States Department of Agriculture. The results of each investigation shall be submitted on forms furnished by the board.

1705.1130 ANIMALS BITTEN OR EXPOSED BY RABID ANIMAL.

~~Any animal(s)~~ Animals determined by the veterinarian to be bitten or otherwise exposed by ~~the~~ a rabid animal shall be humanely euthanized or quarantined ~~for a period not to exceed six months~~ in an animal-tight enclosure ~~so~~ constructed so that the animal cannot ~~get through or over~~ escape and ~~will~~ to prevent the animal from biting or coming in contact with persons or other animals~~, except as circumstances would allow one of the conditions in parts 1705.1140 to 1705.1180 to prevail~~. The quarantine period is for six months unless conditions in part 1705.1175 or 1705.1180 are met.

1705.1145 ANIMAL RABIES VACCINES.

Because of techniques and tolerances, species limitations, and public health implications, animal rabies vaccines may only be administered by or under the supervision of a veterinarian.

1705.1170 ~~RELEASE OF QUARANTINE~~ VETERINARIAN'S INSPECTION REPORT.

Quarantines established on ~~dogs and cats~~ animals under these rules will not be released ~~40 days after revaccination provided~~ until a written report is ~~submitted to~~ received by the board ~~by~~ from a veterinarian stating he has inspected the ~~dog or cat~~ animals, and no signs ~~or symptoms~~ of rabies were observed.

1705.1175 ~~RELEASE OF QUARANTINE~~ ON DOGS AND CATS.

Dogs and cats may be released from quarantine after 40 days under the conditions in items A to C.

A. The animal must have been vaccinated for rabies at least 21 days before exposure.

B. The animal must have been revaccinated for rabies immediately after exposure. The 40-day period begins on the date of the revaccination.

C. The written report required in part 1705.1170 must be received by the board.

1705.1180 RELEASE OF QUARANTINE ON DOMESTICATED FARM ANIMALS.

Quarantines established on domesticated farm animals other than dogs and cats because of rabies exposure may be released upon request after 90 days have elapsed from date of exposure ~~provided~~ if:

A. no new cases of rabies have developed on the premises~~,~~; and ~~further provided~~

B. a written report is submitted to the board by a veterinarian stating he has inspected all animals on the premises and that no animals are showing signs ~~or symptoms~~ of rabies.

1705.1190 AREA PROCLAMATION AND QUARANTINE.

When an investigation reveals that rabies exists and presents imminent danger of an epidemic ~~of rabies developing~~, and it is necessary to control the outbreak and prevent the spread of the disease, the executive secretary ~~and executive officer~~ of the board ~~deems it necessary, he~~ shall make and file a proclamation and establish a quarantine to include any territory in the state ~~which in his judgment is necessary to control an outbreak and prevent the spread of rabies~~.

1705.1210 PERMIT FOR REMOVAL OF DOGS.

Special permits may be issued by the executive secretary ~~and executive officer~~ of the board for removal of dogs from a quarantined area to other points in Minnesota. ~~Such~~ The permits will be granted only ~~under certain conditions and with specific requirements~~ if: (1) the dog has been vaccinated for rabies at least 21 days before the quarantine proclamation under part 1705.1190; (2) there is no evidence of exposure to a rabid animal; and (3) the dog will be quarantined for 40 days at its new destination.

Removal of dogs from a quarantined area in Minnesota to other states will require prior approval from disease control officials in the state of destination.

REPEALER. Minnesota Rules, parts 1705.1140, 1705.1150, and 1705.1160 are 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.

CERTIFICATE OF THE

BOARD OF ANIMAL HEALTH

RESOLUTION ADOPTING THE RULE

I, Herbert Halvorson, 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 26th day of June, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule relating to the Control of Rabies in Minnesota, Parts 1705.1090-1705.1210, is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes Section 35.03, 1986. Dr. T. J. Hagerty, the Executive Secretary of the Board of Animal Health, is authorized to sign the findings of fact, conclusions, and order adopting the rule and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of June, 1987.

Herbert Halvorson

Herbert Halvorson, President
Minnesota Board of Animal Health

Sharon A. Hurley

Attest by one other Board Member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Adoption
of the Rule of the State Board of Animal
Health Governing the Control of Rabies
in Minnesota, Parts 1705.1090 - 1705.1210.

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING
RULE WITHOUT
PUBLIC HEARING

Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on March 30, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on March 25, 1987. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Control of Rabies in Minnesota is adopted this 26th day of June, 1987, pursuant to authority vested in the board by Minnesota Statutes, section 35.03, 1986.

STATE OF MINNESOTA

T. J. Hagerty, DVM
Executive Secretary
Board of Animal Health

June 29, 1987

COMMENTS ON RABIES RULE

Attached are all of the comments received by the Board of Animal Health relating to the proposed changes in the Rule Governing the Control of Rabies in Minnesota.

Both of the comments were in favor of the proposed changes and there were no comments opposed to them. There also were no requests for a public hearing or for notification of the submission of the rule to the Attorney General.

IN THE MATTER OF THE ADOPTION
OF THE RULE OF THE STATE BOARD
OF ANIMAL HEALTH GOVERNING THE
CONTROL OF RABIES IN MINNESOTA,
PARTS 1705.1090 THROUGH 1705.1210

DECLARATION OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0098.

Paul Strandberg
Special Assistant
Attorney General

Dated: June 29, 1987

STATE OF MINNESOTA
BOARD OF ANIMAL HEALTH
160 AGRICULTURE BLDG.
90 W. PLATO BLVD.
ST. PAUL, MN 55107
(612) 296-2942

June 29, 1987

State of Minnesota Attorney General's Office
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Sir:

Enclosed are copies of documents supporting the adoption of Parts 1705.1090 through 1705.1210 relating to the Control of Rabies in Minnesota.

The Board of Animal Health adopted Parts 1705.1090 through 1705.1210 on June 26, 1987 after electing to proceed without a public hearing as provided in Minnesota Statutes 14.22 through 14.28.

Sincerely,

MINNESOTA BOARD OF ANIMAL HEALTH

Keith Friendshuh, DVM
Veterinarian In Charge
Miscellaneous Diseases Division

KF:si
Enc.

AN EQUAL OPPORTUNITY EMPLOYER

Notice of Intent - ok

Rule: See Proposed ok

Citation: 35.03 ok