

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC

RULE REVIEW CHECKLIST

File No. 1656

Docket No. 05 0009 0098

DATE RECEIVED ~~12-21-89~~ 1-3-89

ADOPTED W/O HEARING X

REVIEW DATE 1-12-90

EMERGENCY RULE _____

DUE DATE 1-17-90

TO REVISOR ON 1-~~4~~-90

REVISOR APPROVED 1-9-90

APPROVED 1-16-90 MJC

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE 1-16-90

WITHDRAWN _____

RETURNED TO AGENCY 1-16-90

✓ Rule as adopted (4 copies) ~~no~~ yes

_____ Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- Dec 15, 1989 Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
- 35.03 Statutory Authority
- NA Small Business Statement
- NA Expenditure of public money statement
- 10-25-89 Signature

✓ Statement of Need and Reasonableness (if applicable)
- ✓ Small Business Statement Considered notified all existing markets of the proposed amendments
- NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Nov 6, 1989 Date (30)/25 days before adoption
- ✓ Notice attached indicates it is attached
- _____ Copy of rule or summary attached

✓ Publication in State Register
- Nov 13, 1989 Date (30)/25 days before adoption

✓ 180-day deadline from:
- ✓ Effective date of law requiring rule (14.12) (both rules) amendments not new material
- ✓ end of comment period (§ 14.26) (rules without hearing) Dec 13 - 1-3-90
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
- Oct 6, 1989 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- Dec 15, 1989 Date

_____ Written requests, submissions or comments

_____ Declaration of attorney
- Paul Strandberg Name of SAAG representing agency

_____ Notice of Submission to Atty. Gen. (if applicable)

_____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

FILE COPY

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: January 16, 1990

TO: PAUL A. STRANDBERG
Special Assistant Attorney General
520 Lafayette Road, Suite 500 (55155)

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Permanent Rule Relating to Sale of Swine

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on January 16, 1989.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:bbl
Enclosures

cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "

Board of Animal Health

Adopted Permanent Rules Relating to Sale of Swine

Rules as Adopted

1715.0385 PSEUDORABIES QUARANTINED FEEDER PIGS.

Feeder pigs from pseudorabies quarantined herds in Minnesota may be sold in accordance with part 1715.0550, subpart 5.

1715.0550 SALE OF SWINE.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Sale of lightweight market hogs.** Market hogs consigned that are not sold to go directly to slaughter because of insufficient weight may be sold for feeding purposes to an approved premises in compliance with part 1705.2434.

Subp. 5. **Sale of feeder pigs from herds under quarantine for pseudorabies.** Feeder pigs from pseudorabies quarantined herds may be sold at a pseudorabies restricted feeder pig market approved as a quarantined feeder pig market as provided in items A to E.

A. No livestock other than quarantined feeder pigs may be sold at the market.

B. The quarantined feeder pigs may not be unloaded from incoming vehicles before sale.

C. The feeder pigs must be accompanied by an owner's notice of shipment or shipping permit consigning them to the sale.

D. Following sale, the feeder pigs must be transported directly to an approved premises authorized in part 1705.2434.

E. An owner's notice of shipment must be issued for feeder pigs to move from the pseudorabies-restricted feeder pig market to an approved premises.

Subp. 6. **Stage III areas.** Pseudorabies-restricted feeder pig markets under this part may not be established or authorized

in the northern zone as defined in part 1705.2472 or in an area that is in stage III of the state-federal-industry program standards.

APPROVED AS TO FORM AND LEGALITY
January 16 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 16 1990

Joan Anderson Growe
Secretary of State

1:20 pm

Livestock Sales

Stat Author 35.03

The board shall make rules necessary to protect the health of domestic animals.

no new material - amendments

not a strong statement of need and Reasonableness

Board of Animal Health

Proposed Permanent Rules Relating to Sale of Swine

Rules as Proposed

1715.0385 PSEUDORABIES QUARANTINED FEEDER PIGS.

Feeder pigs from pseudorabies quarantined herds in Minnesota may be sold in accordance with part 1715.0550, subpart 5.

1715.0550 SALE OF SWINE.

[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Sale of lightweight market hogs.** Market hogs consigned that are not sold to go directly to slaughter because of insufficient weight may be sold for feeding purposes to an approved premises in compliance with part 1705.2434.

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C. The feeder pigs must be accompanied by an owner's notice of shipment or shipping permit consigning them to the sale.

D. Following sale, the feeder pigs must be transported directly to an approved premises authorized in part 1705.2434.

E. An owner's notice of shipment must be issued for feeder pigs to move from the pseudorabies-restricted feeder pig market to an approved premises.

Subp. 6. **Stage III areas.** Pseudorabies-restricted feeder pig markets under this part may not be established or authorized

Approved by Revisor

in the northern zone as defined in part 1705.2472 or in an area that is in stage III of the state-federal-industry program standards.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Sale of Swine

AGENCY: Board of Animal Health

MINNESOTA RULES: Chapter 1715

STATE OF MINNESOTA
OCT 24 1989
Board of Animal Health

The attached rules are approved for publication
in the State Register

Craig E. Lindeke
Senior Assistant Revisor

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : December 20, 1989

TO : KARL SONNEMAN
Special Assistant Attorney General

FROM : PAUL A. STRANDBERG
Special Assistant Attorney General

PHONE : 7-4391

SUBJECT : Rules

Enclosed please find for filing an original and one copy of the following:

Declaration of Counsel;

Certificate of the Board of Animal Health - Resolution Adopting Rules;

Findings of Fact, Conclusions, and Order Adopting Rule Without Public Hearing;

Certificate of Board's Authorizing Resolution;

Affidavit of Mailing the Notice of Intent to Adopt a Rule Without a Public Hearing and Certificate of Mailing List;

Proposed Rules Governing the Sale of Livestock - Notice of Intent to Amend Rules Without a Public Hearing;

Proposed Permanent Rules Relating to Sale of Swine (as published in the State Register (November 13, 1989)

Statement of Need and Reasonableness;

Rules - dated 10/20/89;

Rules - dated 11/13/89.

Should you have any questions, please feel free to contact me.

PAS/crh

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 Sale of Livestock At Auction Markets, Consignment, Community and Other Sales.

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

(1) Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on the 13th day of November, 1989 and was sent by United States Mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes, Sections 14.14, Subdivision 1a and 14.22 on the 7th day of November, 1989. (2) 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 rule making mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rule making. No requests for a public hearing on the rule were received by the Board.

(5) No submissions or comments on the rule were received by the Board. (7) No requests for notice of submission to the attorney general were received by the Board.

Based on the comments and evidence in the record before the Board, I find the following:

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Sale of Livestock at Auction Markets, Consignment, Community and Other Sales is adopted this 15th day of December, 1989, pursuant to authority vested in the Board by Minnesota Statutes Section 35.03.

(9)

T. J. Hagerty
Executive Secretary
Board of Animal Health

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 Sale of Livestock At Auction Markets, Consignment, Community and Other Sales.

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

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All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rule making. No requests for a public hearing on the rule were received by the Board.

No submissions or comments on the rule were received by the Board. No requests for notice of submission to the attorney general were received by the Board.

Based on the comments and evidence in the record before the Board, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Sale of Livestock at Auction Markets, Consignment, Community and Other Sales is adopted this 15th day of December, 1989, pursuant to authority vested in the Board by Minnesota Statutes Section 35.03.

T. J. Hagerty
Executive Secretary
Board of Animal Health

In the Matter of the Proposed Adoption of the Rule of the Board of Animal Health Governing the Sale of Livestock

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Robert G. Pyle, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Board of Animal Health rulemaking list is accurate, complete, and current as of this 6th day of November, 1989.

That on the 6th day of November, 1989, at the city of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule without a public hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Subscribed and sworn to before me this 7 day of November, 1989.

Marian S. Comford

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

Robert G Pyle
(Name)

Veterinarian In charge Markets
(Title)

OFFICIAL BOARD (OF ANIMAL HEALTH) MAILING LIST 10-5-89 To Receive all Hearing Notices

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

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

Executive Secretary
MN Board of Pharmacy
717 SE Delaware St. #351
Minneapolis, MN 55440

THE FARMER
1999 Shepard Road
St. Paul, MN 55116

Bob Franklin, City Editor
Mpls. Tribune
425 Portland Ave
Minneapolis, MN 55488

Mr. Lyle Lamphere, Sec./Treas.
MN Livestock Breeders Assoc.
112 - Tenth Ave. So.
South St. Paul, MN 55075

David Luhman
RR 3
Goodhue, MN 55027

MN Guernsey Breeders Assoc.
Mrs. Walter Fuchs, Secretary
Rt. 1
Nerstrand, MN 55053

MN Holstein Breeders Assoc.
417 So 72nd Ave
St. Cloud, MN 56301

MN Milking Shorthorn Society
Harold Krause
Eagle Bend, MN 56446

Rick Mooney, Assoc. Editor
Farm Journal
P.O. Box 645
Chippewa Falls, WI 54729

Norman Nibbe
314 Walnut
Lake City, MN 55041

Dr. Glen Nelson
Veterinary Diagnostic Lab.
U of MN
St. Paul, MN 55108

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

Congressman Vin Weber
208 E. College Drive
Marshall, MN 56258

Jerry Noren
Rt. 1
St. James, MN 56081

Phillips Legislative Serv., Inc.
459 Rice St.
St. Paul, MN 55103

Linda Lacher, Exec. Secy.
Minn. Vet. Medical Assoc.
379 University Ave.-Suite 214
St. Paul, MN 55103

Karyl Dronen President
MN Dairy Goat Assoc.
6222 Hiway 18
Finlayson MN 55735

Kurt Hamilton, Exec. Secretary
MN Livestock Marketing Assn.
301 E Armour
Kansas City, MO 64110

Robert Nixon
Dairy & Livestock Division
MN Dept. of Agriculture
90 W Plato Blvd
St. Paul, MN 55107

Judith G. Schotzko
Frundt, Frundt, & Johnson
117 W. 5th St.
Blue Earth, MN 56013

Legislative Commission on
Review of Admin. Rules
Room B 46, State Capitol
St. Paul, MN 55155

Calvin Mattson
Rt. 2
Granada, MN 56039

John & Mathew Lenort
Rt. 3 - Box 179
Fairmont, MN 56031

Mr. Vern Ingvalson
MN Farm Bureau
PO 64370
St. Paul, MN 55164

Mr John Hallstrom
Rt 3 Box 90
Fairmont MN 56301

Dr J G Flint
898 Co Rd I
Shoreview MN 55126

In the Matter of the Proposed Adoption of the Rule of the Board of Animal Health Governing the Sale of Livestock

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Robert G. Pyle, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Board of Animal Health rulemaking list is accurate, complete, and current as of this 6th day of November, 1989.

That on the 6th day of November, 1989, at the city of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule without a public hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Robert G Pyle
(Name)

Veterinarian In charge Markets
(Title)

Subscribed and sworn to before me this 7 day of November, 1989.

Marian S. Comford



OFFICIAL BOARD HEARING LIST (OF ANIMAL HEALTH) 10-5-89 To Receive all Hearing Notices

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

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

Executive Secretary
MN Board of Pharmacy
717 SE Delaware St. #351
Minneapolis, MN 55440

THE FARMER
1999 Shepard Road
St. Paul, MN 55116

Bob Franklin, City Editor
Mpls. Tribune
425 Portland Ave
Minneapolis, MN 55488

Mr. Lyle Lamphere, Sec./Treas.
MN Livestock Breeders Assoc.
112 - Tenth Ave. So.
South St. Paul, MN 55075

David Luhman
RR 3
Goodhue, MN 55027

MN Guernsey Breeders Assoc.
Mrs. Walter Fuchs, Secretary
Rt. 1
Nerstrand, MN 55053

MN Holstein Breeders Assoc.
417 So 72nd Ave
St. Cloud, MN 56301

MN Milking Shorthorn Society
Harold Krause
Eagle Bend, MN 56446

Rick Mooney, Assoc. Editor
Farm Journal
P.O. Box 645
Chippewa Falls, WI 54729

Norman Nibbe
314 Walnut
Lake City, MN 55041

Dr. Glen Nelson
Veterinary Diagnostic Lab.
U of MN
St. Paul, MN 55108

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

Congressman Vin Weber
208 E. College Drive
Marshall, MN 56258

Jerry Noren
Rt. 1
St. James, MN 56081

Phillips Legislative Serv., Inc.
459 Rice St.
St. Paul, MN 55103

Linda Lacher, Exec. Secy.
Minn. Vet. Medical Assoc.
379 University Ave.-Suite 214
St. Paul, MN 55103

Karyl Dronen President
MN Dairy Goat Assoc.
6222 Hiway 18
Finlayson MN 55735

Kurt Hamilton, Exec. Secretary
MN Livestock Marketing Assn.
301 E Armour
Kansas City, MO 64110

Robert Nixon
Dairy & Livestock Division
MN Dept. of Agriculture
90 W Plato Blvd
St. Paul, MN 55107

Judith G. Schotzko
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Blue Earth, MN 56013

Legislative Commission on
Review of Admin. Rules
Room B 46, State Capitol
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Rt. 3 - Box 179
Fairmont, MN 56031

Mr. Vern Ingvalson
MN Farm Bureau
PO 64370
St. Paul, MN 55164

Mr John Hallstrom
Rt 3 Box 90
Fairmont MN 56301

Dr J G Flint
898 Co Rd I
Shoreview MN 51526

.2580; .2640; .2680; .2700; .2740; .2800; .2820; .2880 (withdrawn) 1066
9500.2060 s.118 (proposed repealer withdrawn) 1066
9575.0010; .0020; .0090; .0380; .0530; .0620; .0720 (adopted) 1008
9575.0350; .1500 (proposed) 1042
9575.0090 s.2, 3 (repealed) 1008

Proposed Rules

Pursuant to Minn. Stat. §§ 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 Sale of Swine

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HERBY 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 14.21 through 14.28 (1982).

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 and 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 days 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 14.13 through 14.20.

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

Robert G. Pyle
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107
Telephone: (612) 296-2941

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.

Authority for adoption of these rules is contained in *Minnesota Statutes* section 35.03 (1982). 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 Robert G. Pyle 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 Robert G. Pyle.

The rules proposed for adoption relate to the following matters: The Sale of Livestock in Minnesota.

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

Dated: 25 October 1989

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

Rules as Proposed

1715.0385 PSEUDORABIES QUARANTINED FEEDER PIGS.

Feeder pigs from pseudorabies quarantined herds in Minnesota may be sold in accordance with part 1715.0550, subpart 5.

1715.0550 SALE OF SWINE.
[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Sale of lightweight market hogs.** Market hogs consigned that are not sold to go directly to slaughter because of insufficient weight may be sold for feeding purposes to an approved premises in compliance with part 1705.2434.

Subp. 5. **Sale of feeder pigs from herds under quarantine for pseudorabies.** Feeder pigs from pseudorabies quarantined herds may be sold at a pseudorabies restricted feeder pig market approved as a quarantined feeder pig market as provided in items A to E.

A. No livestock other than quarantined feeder pigs may be sold at the market.

B. The quarantined feeder pigs may not be unloaded from incoming vehicles before sale.

C. The feeder pigs must be accompanied by an owner's notice of shipment or shipping permit consigning them to the sale.

D. Following sale, the feeder pigs must be transported directly to an approved premises authorized in part 1705.2434.

E. An owner's notice of shipment must be issued for feeder pigs to move from the pseudorabies-restricted feeder pig market to an approved premises.

Subp. 6. **Stage III areas.** Pseudorabies-restricted feeder pig markets under this part may not be established or authorized in the northern zone as defined in part 1705.2472 or in an area that is in stage III of the state-federal-industry program standards.

Department of Health

Proposed Permanent Rules Relating to Hearing Instrument Dispenser Registration

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With A Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing

Explanation of Alternative Notices

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* sections 14.22 to 14.28 (1988). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1988). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on December 13, 1989, there will be five days before the scheduled hearing date. This five-day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

.2580; .2640; .2680; .2700; .2740; .2800; .2820; .2880 (withdrawn) 1066
9500.2060 s.118 (proposed repealer withdrawn) 1066
9575.0010; .0020; .0090; .0380; .0530; .0620; .0720 (adopted) 1008
9575.0350; .1500 (proposed) 1042
9575.0090 s.2, 3 (repealed) 1008

Proposed Rules

Pursuant to Minn. Stat. §§ 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 Sale of Swine

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HERBY 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 14.21 through 14.28 (1982).

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 and 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 days 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 14.13 through 14.20.

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

Robert G. Pyle
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107
Telephone: (612) 296-2941

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.

Authority for adoption of these rules is contained in *Minnesota Statutes* section 35.03 (1982). 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 Robert G. Pyle 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 Robert G. Pyle.

The rules proposed for adoption relate to the following matters: The Sale of Livestock in Minnesota.

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

Dated: 25 October 1989

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

Rules as Proposed

1715.0385 PSEUDORABIES QUARANTINED FEEDER PIGS.

Feeder pigs from pseudorabies quarantined herds in Minnesota may be sold in accordance with part 1715.0550, subpart 5.

1715.0550 SALE OF SWINE.
[For text of subps 1 to 3, see M.R. 1989]

Subp. 4. **Sale of lightweight market hogs.** Market hogs consigned that are not sold to go directly to slaughter because of insufficient weight may be sold for feeding purposes to an approved premises in compliance with part 1705.2434.

Subp. 5. **Sale of feeder pigs from herds under quarantine for pseudorabies.** Feeder pigs from pseudorabies quarantined herds may be sold at a pseudorabies restricted feeder pig market approved as a quarantined feeder pig market as provided in items A to E.

A. No livestock other than quarantined feeder pigs may be sold at the market.

B. The quarantined feeder pigs may not be unloaded from incoming vehicles before sale.

C. The feeder pigs must be accompanied by an owner's notice of shipment or shipping permit consigning them to the sale.

D. Following sale, the feeder pigs must be transported directly to an approved premises authorized in part 1705.2434.

E. An owner's notice of shipment must be issued for feeder pigs to move from the pseudorabies-restricted feeder pig market to an approved premises.

Subp. 6. **Stage III areas.** Pseudorabies-restricted feeder pig markets under this part may not be established or authorized in the northern zone as defined in part 1705.2472 or in an area that is in stage III of the state-federal-industry program standards.

Department of Health

Proposed Permanent Rules Relating to Hearing Instrument Dispenser Registration

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With A Public Hearing if 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing if Fewer Than 25 Persons Request a Hearing

Explanation of Alternative Notices

The Minnesota Department of Health (Department) is hereby giving notice of its intent to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes* sections 14.22 to 14.28 (1988). However, in case 25 or more persons request a hearing, thus necessitating that one be held pursuant to *Minnesota Statutes* section 14.25 (1988), and in order to expedite the rulemaking process should that occur, the Department is at the same time hereby giving notice of the hearing on the proposed rules pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1988). The hearing will, of course, be cancelled if 25 or more people do not request that one be held. With the comment period closing on December 13, 1989, there will be five days before the scheduled hearing date. This five-day period will give interested persons ample time to contact the Department to find out whether the hearing will be cancelled and to plan accordingly.

STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments of the Rules of the Board of Animal Health, Governing Parts 1715.0200 thru 1715.0580, The Sale of Livestock at Auction Markets, Consignment, Community and Other Sales

STATEMENT OF NEED AND REASONABLENESS

The Minnesota Board of Animal Health has authority under MS 35.03 to adopt rules to protect the health of domestic animals of the state. The Board has determined that tests, inspections and other requirements and procedures involving the sale of livestock at markets protects the health of livestock of this state.

The Board of Animal Health proposes to amend rules governing the sale of livestock at auction markets, consignment, community and other sales. The reasons and need for the changes follow.

The last revision of the Parts 1715.0200 thru 1715.0580 was made March 18, 1985. The Pseudorabies Advisory Committee has recommended changes to remove marketing obstacles for certain classes of swine.

The Board, on the advice of the Pseudorabies Advisory Committee, proposes changes to allow freer marketing of pseudorabies quarantined feeder pigs consistent with effective disease control. The sale of quarantined feeder pigs is allowed in Part 1705.2430, Infected Herd Quarantine and Disposal Procedures. The proposal to allow sales of feeder pigs from pseudorabies quarantined herds through specially designated markets will relieve some economic hardship to feeder pig producers. Currently, feeder pig producers under pseudorabies quarantine do not have the advantage of competitive bidding for their product.

The Board proposes to allow the sale of feeder pigs from quarantined herds at special classes of markets with provisions for prevention of the spread of pseudorabies to uninfected herds. These provisions are: 1. Limit sale at restricted feeder pig markets only to quaran-

tined feeder pigs. 2. Not allow unloading of vehicles onto common facilities. 3. Require documents to convey quarantined feeder pigs into and out of the market. 4. Allow sale only to approved feeder pig finishing premises.

Pseudorabies restricted feeder pig markets cannot be established in the northern zone or in Stage III areas.

The Board has determined that lightweight market hogs are not acceptable to hog slaughtering establishments. Under the pseudorabies control rules, Parts 1705.2400 to 1705.2530, lightweight swine are not eligible for sale from a market because monitored herd status cannot be established. The Board proposes to remove this restriction to allow the sale of lightweight market hogs to approved premises authorized in Part 1705.2434. This provides that such swine cannot be sold to go to the northern zone and will restrict sale to finishing lots authorized and under the control of the Board.

For purposes of compliance with MS 14.11, the Board estimates that there will be no expenditure of money by local public bodies and there will not be any adverse impact on agricultural land in Minnesota.

With respect to MS 14.115 as it relates to the impact on small business, the Board has determined that all markets that will be affected by this rule are small businesses as defined in subdivision 1.

The Board considered the provisions of subdivision 2 for reducing the impact on small business and has concluded:

(1) Less stringent compliance and reporting requirements would defeat the purpose of the proposed rule amendments and would not meet the requirements of 1705.2400 thru 1705.2530.

(2) Exception of small businesses from compliance is not in the best interests of swine and livestock industry of the state of Minnesota.

(3) There will be decreased impact on market operation to the extent that sale of lightweight market swine at auction markets allows more competitiveness at the market.

The Board has complied with subdivision 4 by notifying all existing markets of the proposed amendments to the rule by direct notification of the proposed rule making.

Date 11-7-89

T J Hagerty
Executive Secretary
Minnesota Board of Animal Health

STATE OF MINNESOTA BOARD OF ANIMAL HEALTH

In the Matter of the Proposed Amendments of the Rules of the Board of Animal Health, Governing Parts 1715.0200 thru 1715.0580, The Sale of Livestock at Auction Markets, Consignment, Community and Other Sales

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For purposes of compliance with MS §14.11, the Board estimates that there will be no expenditure of money by local public bodies and there will not be any adverse impact on agricultural land in Minnesota.

With respect to MS §14.115 as it relates to the impact on small business, the Board has determined that all markets that will be affected by this rule are small businesses as defined in subdivision 1.

The Board considered the provisions of subdivision 2 for reducing the impact on small business and has concluded:

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(3) There will be decreased impact on market operation to the extent that sale of lightweight market swine at auction markets allows more competitiveness at the market.

The Board has complied with subdivision 4 by notifying all existing markets of the proposed amendments to the rule by direct notification of the proposed rule making.

Date 11-6-89

T J Hagerty
Executive Secretary
Minnesota Board of Animal Health

In the Matter of the Adoption
of the Rule of the State Board
of Animal Health Governing the Sale
of Livestock at Auction Markets,
Consignment, Community, and Other
Sales.

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 code is 0098.

Paul Strandberg
Special Assistant
Attorney General

Dated: 12/19/85

In the Matter of the Adoption
of the Rule of the State Board
of Animal Health Governing the Sale
of Livestock at Auction Markets,
Consignment, Community, and Other
Sales.

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 code is 0098.

_____

Paul Strandberg
Special Assistant
Attorney General

Dated: _____

CERTIFICATE OF THE BOARD OF ANIMAL HEALTH

RESOLUTION ADOPTING RULES

I, Dr. Sharon I. Hurley, 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 December 1989, that a quorum was present, that a majority of those present voted for the resolution, which has not been rescinded or modified.

"RESOLVED, that the Board of Animal Health rules relating to Parts 1715.0200 thru 1715.0580 The Sale of Livestock at Auction Markets, Consignment, Community and Other Sales is approved and adopted, pursuant to authority vested in the Board of Animal Health by Minnesota Statutes §35.03. Dr. T. J. Hagerty, 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 15th day of December 1989.

Sharon I. Hurley

Dr. Sharon ~~I. Hurley~~, President
Board of Animal Health

Jack Delaney

Attest by one other Board member

CERTIFICATE OF THE BOARD OF ANIMAL HEALTH

RESOLUTION ADOPTING RULES

I, Dr. Sharon I. Hurley, 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 December 1989, that a quorum was present, that a majority of those present voted for the resolution, which has not been rescinded or modified.

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IN WITNESS WHEREOF, I have hereunto subscribed my name this 15th day of December 1989.

Sharon I. Hurley

Dr. Sharon I. Hurley, President
Board of Animal Health

Jack Delaney

Attest by one other Board member

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Sharon Hurley, 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 6th day of October, 1989, 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 Dr. T. J. Hagerty, Executive Secretary of the Board of Animal Health, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt a rule without a public hearing governing the Sale of Livestock to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of October, 1989.

Sharon L. Hurley
(President of the Board)

Attest by one other Board Member

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Sharon Hurley, 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 6th day of October, 1989, 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 Dr. T. J. Hagerty, Executive Secretary of the Board of Animal Health, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt a rule without a public hearing governing the Sale of Livestock to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of October, 1989.

Sharon L. Hurley
(President of the Board)

Attest by one other Board Member

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

Board of Animal Health Proposed
Rules Governing the Sale of Livestock

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 14.21 through 14.28 (1982).

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 and 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 days 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 14.13 through 14.20.

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

Robert G. Pyle
State Board of Animal Health
90 West Plato Blvd.
160 Agriculture Building
St. Paul, MN 55107

Telephone: (612) 296-2941

Authority for adoption of these rules is contained in Minnesota Statutes section 35.03 (1982). 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 form Robert G. Pyle upon request.

(9) 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 finale rules as adopted should submit a written statement of such request to Robert G. Pyle.

The rules proposed for adoption relate to the following matters: The Sale of Livestock in Minnesota.

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

10-25-89
Dated

T J Hagerty
By Robert G Pyle

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

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

Board of Animal Health Proposed
Rules Governing the Sale of Livestock

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10-25-89

Dated

T J Hagerty
By Robert G Pyle

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