

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Resubmitted Rules

RULE REVIEW CHECKLIST

File No. 1839
DATE RECEIVED 11-26-91
REVIEW DATE ~~Dec 2, 1991~~
DUE DATE ~~Dec 5, 1991~~
(~~DIS~~)APPROVED 12-3-91
WITHDRAWN _____

Docket No. 05 0009 0098
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON _____
REVISOR (DIS)APPROVED NA
FILED W/SEC. OF STATE ~~NA~~ 12/4/91
RETURNED TO AGENCY 12-4-91

NA Rule as adopted (4 copies) didn't submit

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

_____ Petition for Adoption of a Rule

NA Board's Authorizing Resolution
_____ Date adopted

NA Proposed Rule
_____ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
35.03 ✓ Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
10-16-91 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Oct 17, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
Oct 21, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

NA Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Nov 21, 1991 Date

N ~~Written Requests, Submissions or Comments~~

NA Declaration of Attorney
_____ Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

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

In the Matter of the Proposed
Adoption of the Rule Amendments
Relating to Diseases of Poultry

NOTICE OF WITHDRAWAL
FROM CONSIDERATION BY
ATTORNEY GENERAL

Please take notice that the Board of Animal Health hereby withdraws the above-captioned rule for consideration by the Attorney General on July 22, 1991. The rule will be resubmitted to the Attorney General's Office after correction and resolution of the legal concerns.

WALTER MACKEY, DVM, MPH
Acting Executive Secretary

Dated: July 22, 1991

Post-It™ brand fax transmittal memo 7671	# of pages ▸ 1
To Charlene Hatcher	From Keith Friendshuh
Co.	Co Animal Health
Dept.	Phone # 6-3428
Fax # 7-2576	Fax # 6-7417

Board of Animal Health

Adopted Permanent Rules Relating to Poultry

Rules as Adopted

1710.1300 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1710.1300 to 1710.1530.

Subp. 2. **Authorized agent.** "Authorized agent" means a person not employed by the board but designated and authorized by the board to perform functions under parts 1710.1300 to 1710.1530.

Subp. 3. **Baby poultry.** "Baby poultry" means newly hatched poultry that have not been fed or watered.

Subp. 4. **Board.** "Board" means the Minnesota Board of Animal Health.

Subp. 5. **Chickens.** "Chickens" means meat-type and egg-type chickens, but not exhibition, fancy, or game chickens.

Subp. 6. **Control program.** "Control program" means one or more of the state or state and federal cooperative programs for the control or eradication of poultry diseases.

Subp. 7. **Deal; dealing.** "Deal" and "dealing" mean the purchase and resale, for any purpose except immediate slaughter, of any live poultry not owned by the seller since the hatching of those poultry.

Subp. 8. **Dealer.** "Dealer" means a person, firm, association, partnership, or corporation engaged in dealing in poultry.

Subp. 9. **Disease control classification.** "Disease control classification" means the negative status of a flock as pertaining to one or more of the control program diseases.

Subp. 10. **Environmental sample.** "Environmental sample" means a dust, litter, or swab sample taken from a building according to plan procedures.

Subp. 11. **Flock.** "Flock" means poultry maintained and

segregated for at least 21 days as one group of birds on one premises.

Subp. 12. **Flockowner.** "Flockowner" means a person who owns or is in charge of a flock or flocks of poultry.

Subp. 13. **Hatchery.** "Hatchery" means buildings and equipment on one premises operated or controlled for the purpose of hatching poultry.

Subp. 14. **Hatchery debris.** "Hatchery debris" includes hatcher fluff or egg shells, meconium, or dead germ eggs.

Subp. 15. **Hatching egg dealer.** "Hatching egg dealer" means a person in the business of selling, trading, or exchanging poultry hatching eggs owned by the person or for participating flockowners, independent flockowners, or other hatcheries.

Subp. 16. **Multiplier breeding flock.** "Multiplier breeding flock" means a flock intended for the production of progeny for commercial egg or meat production or for other nonbreeding purposes.

Subp. 17. **Nonparticipant.** "Nonparticipant" means a person who has not signed an agreement with the board or whose agreement has expired or been canceled.

Subp. 18. **Official laboratory.** "Official laboratory" means a laboratory authorized by the board through the cooperative plan to test poultry for program diseases.

Subp. 19. **Other domesticated fowl.** "Other domesticated fowl" means fancy, exhibition, and game chickens, waterfowl, and game birds maintained in captivity, excluding pigeons and doves.

Subp. 20. **Participant.** "Participant" means a person who has signed an agreement with the board that has not expired or been canceled.

Subp. 21. **Plan.** "Plan" means poultry disease control programs of the federal government with which the state cooperates. The board is the official agency for purposes of administering these programs.

Subp. 22. **Positive flock.** "Positive flock" means a flock in which one or more birds are diagnosed with a control program

disease.

Subp. 23. **Poultry.** "Poultry" means turkeys, chickens, and other domesticated fowl.

Subp. 24. **Primary breeding flock.** "Primary breeding flock" means a flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

Subp. 25. **Products.** "Products" means live poultry and hatching eggs.

Subp. 26. **Reactor.** "Reactor" means a bird that has a positive test to a control program disease.

Subp. 27. **Recycled.** "Recycled" means a flock that is molted for the purpose of coming back into production as a breeder flock.

Subp. 28. **Started poultry.** "Started poultry" means young poultry that have been fed and watered.

Subp. 29. **State inspector.** "State inspector" means a person employed by the board to perform functions under the plan and parts 1710.1300 to 1710.1530.

Subp. 30. **Supervision.** "Supervision" means the direct inspection or critical evaluation by a state inspector.

Subp. 31. **Turkeys.** "Turkeys" means domestic, exhibition, and wild turkeys maintained in captivity.

GENERAL PROVISIONS

1710.1310 SALE OF POULTRY AND HATCHING EGGS.

No person may sell, offer for sale, purchase, or trade poultry less than four months of age and their hatching eggs unless they originate from flocks and hatcheries operating under the supervision of the board and parts 1710.1300 to 1710.1530. Birds over four months of age must be tested and be negative for the appropriate required tests before being sold, except those sold for immediate slaughter.

1710.1320 EXEMPTIONS.

Parts 1710.1300 to 1710.1530 do not apply to a person hatching eggs from the person's breeding flocks, if the eggs and

progeny are maintained on the same premises and are not sold except to slaughter.

1710.1330 PERMITS.

No person may conduct or operate buildings and equipment for the purpose of incubating and hatching eggs or otherwise handling, brooding, selling, or dealing in baby or started poultry, unless a permit is obtained from the board. Requirements for a permit are a completed application, necessary testing, and a satisfactory inspection report. Permits are annual with the renewal date set by the board.

1710.1340 BOARD PARTICIPATION.

The board may participate in federal disease control programs for poultry. Breeder flocks and hatcheries signing up for any of these disease control programs must comply with all applicable provisions for obtaining and maintaining the program disease classifications agreed upon.

1710.1350 REQUIRED PARTICIPATION.

All hatcheries, dealers, and poultry breeder flocks shall participate in the Salmonella pullorum/gallinarum disease control program. In addition, turkey and chicken breeder flocks and hatcheries shall participate in the Mycoplasma gallisepticum (MG) and the Mycoplasma synoviae (MS) programs, except exhibition and wild turkeys are exempt from the MS program, and egg-type chicken breeder flocks and hatcheries must participate in the sanitation monitored program for Salmonella enteritidis. A required participation flock that is positive to any of these diseases must be quarantined and may not be used as a breeder flock for the production of hatching eggs.

1710.1360 VOLUNTARY PARTICIPATION.

Hatcheries and breeder flock owners may volunteer to participate in any other available disease control programs. Use of a breeder flock positive to any of these diseases disqualifies the hatchery and flock from classifications for these diseases.

1710.1370 HATCHERY PARTICIPATION.

If more than one hatchery is operated under the same ownership or management, all the hatcheries shall attain and maintain the same disease control classifications for all products interchanged. Flocks and hatcheries supplying a hatchery shall attain and maintain the same disease control classifications as the receiving hatchery.

1710.1380 FLOCK PARTICIPATION.

Flocks of poultry to be used for breeding under the board's supervision must be tested at the disease control participation level applied for according to parts 1710.1300 to 1710.1530 and follow all plan provisions. Only birds of the same or comparable classification may be added to a flock. The addition of poultry without the same or comparable classifications causes loss of those classifications.

1710.1390 LOSS OF CLASSIFICATION.

Poultry products produced under a plan agreement lose their classification when consigned to or received by a person without the same classification or by a nonparticipant. A hatchery or flock loses its disease control classification if any of its birds are considered positive in that disease classification.

1710.1400 SUSPENSION OR REVOCATION OF PERMIT.

Failure to comply with parts 1710.1300 to 1710.1530 is grounds to revoke or suspend the permit and the hatchery may lose disease control classifications.

1710.1410 TEST PROCEDURES.

Tests, procedures, and antigens used in the control of poultry diseases must be approved by the board according to plan programs, except the board may approve the use of other comparable tests, procedures, and antigens.

1710.1420 TESTING SCHEDULE.

Subpart 1. **Chicken; egg-type and meat-type.**

Disease	Type of	Initial Test	Monitoring During

	Flock	16 to 20 weeks of age or start of laying for recycled flocks	Laying Period
Pullorum-Typhoid	Primary	300 blood tests	None
	Multiplier	No test required	None
	Recycled	No test required	None
Mycoplasma gallisepticum	Primary	300 blood samples	150 blood samples every 90 days
	Multiplier Recycled	150 blood samples with a minimum of 50 per barn	75 blood samples with minimum of 30 per pen every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	
Mycoplasma synoviae	Primary	300 blood samples	150 blood samples every 90 days
	Multiplier Recycled	150 blood samples with a minimum of 50 per barn	75 blood samples every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	

	Age	Type of sample
Sanitation monitored for Salmonella (egg-type only)	0 to 7 days	Originate from sanitation monitored primary breeder or a sample of 30 1st 7-day deads and memeconium.
	16 to 20 weeks	300 blood samples* and 15 environmental samples**
	Laying period	15 environmental samples** per month from each flock
Started poultry	Before hatching	Cleaned and disinfected brooder barns and 15 drag swabs cultured negative
	7 to 10 days	Early mortality sample and 15 environmental samples**
	12 to 18 weeks	15 environmental samples**
Sanitation	4 months of age	15 environmental samples

monitored for Salmonella (meat-type only)	Laying period	15 environmental samples every 90 days

* culture reactors - maximum of 25

** If Salmonella enteritis is isolated, then 60 birds must be examined bacteriologically for Salmonella.

Subp. 2. **Turkey.**

Disease	Type of Flock	Initial Test 12 to 20 weeks of age or start of laying for recycled flocks	Monitoring during Laying Period
Pullorum-Typhoid	Primary	300 blood samples	None
	Multiplier	No test required	None
	Recycled	No test required	None
Salmonella Typhimurium	Primary Multiplier	100 percent blood test or 500 blood samples** and 500 rectal swabs* per flock with a minimum of 100 of each per barn	30 environmental samples per barn
	Recycled	500 rectal swabs or 30 environmental samples at start of molting period	30 environmental samples per barn
Mycoplasma galli-septicum	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age
Mycoplasma meleagridis	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter
Mycoplasma synoviae	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter

	Age	Type of sample
Sanitation monitored for Salmonella spp.	0 to 10 days	Hatchery debris or a sample of 30 1st 10-day deads and 15 environmental samples from cleaned and disinfected building before new candidate breeding flock is placed

	12 to 20 weeks	30 environmental samples (may use swabs from Salmonella typhimurium testing)
	35 to 50 weeks (midlay)	30 environmental samples once and hatchery debris or a sample of 30 1st 10-day deads on a monthly basis
	End of production	30 environmental samples (before barn cleaned)

* If Salmonella typhimurium is cultured from two or more rectal swabs or birds the flock is considered positive.

** Serological reactors shall be submitted to the state laboratory within ten days for culture.

Subp. 3. **Waterfowl, exhibition, and game birds.**

Disease	Type of Flock	Initial Test	Monitoring
Pullorum-Typhoid (100% test-first year)	Primary	100 birds blood tested per flock	None
	Primary waterfowl and game birds	100 blood tests per flock or an approved monitoring program	
	Waterfowl only		Bacterial exam of hatchery debris from each hatch
	Multiplier	No testing required	
Mycoplasma galli-septicum	Primary	Blood samples from all birds or from 300 per flock	Blood samples every 90 days - 5% of flock with minimum of 100; or every 30 days - 30 cull baby poultry or 30 eggs
	Multiplier	Blood samples from 50% of birds with maximum - 200 per flock minimum - 30 per flock	Blood samples every 90 days - 2% with minimum of 30 per pen; or every 30 days - 30 cull baby poultry or 30 eggs

1710.1430 IDENTIFICATION.

If further testing is required, all poultry must be identified in such a way as to be individually found when the test is completed and all positive birds must be identified with a leg or wing band. Poultry tested for sale or exhibition must

be identified with a leg or wing band.

1710.1435 DIAGNOSTIC SERVICES.

A person performing poultry diagnostic services shall report to the board, within 48 hours, the source of specimens that are positive to a disease for which there is a control program.

1710.1440 REACTORS.

Birds positive to any of the control program diseases are considered reactors. Reactors may be retested according to board and plan procedures. If retesting is required, reactors must be submitted to the laboratory within ten days.

1710.1445 INVESTIGATION.

The board shall conduct an investigation as to the origin of a disease infection in a flock for which there is a required program.

1710.1450 QUARANTINE.

Flocks positive to required participation disease control tests are quarantined. No products may be used from these flocks and the birds may only be sold to slaughter under permit from the board.

1710.1455 RELEASE OF QUARANTINE.

A quarantine imposed under part 1710.1450 must be released and the flock requalifies for participation in the disease control program:

A. if all cultures of the reactor birds are negative; or

B. for the Pullorum-Typhoid program, if all reactor birds are slaughtered, and there are two consecutive official negative tests, at least 21 days apart on all of the remaining birds.

1710.1460 CLEANING AND DISINFECTING.

After removal of a positive flock, the premises must be carefully cleaned and disinfected under official supervision

according to plan procedures.

1710.1470 ADDITIONAL TESTING.

The board may conduct or require additional testing or other protective measures if the board considers it necessary.

1710.1480 HATCHERY RESPONSIBILITIES.

Hatchery management shall:

A. identify products as to source;

B. clean and disinfect incubators, hatchers, and trays after each hatch according to plan procedures;

C. fumigate or sanitize hatching eggs according to plan procedures;

D. maintain incubator rooms, brooder rooms, and other hatchery areas in a sanitary condition and isolate the brooder room in a manner satisfactory to the board;

E. use only new or cleaned and disinfected poultry boxes;

F. not hatch or custom hatch eggs unless they originate from sources with the same or comparable disease control classifications as the hatchery;

G. permit inspection of buildings, equipment, and records at any reasonable time by agents of the board; and

H. maintain adequate records to show origin of all hatching eggs and destination of baby poultry for the current year and the previous year.

1710.1490 FLOCKOWNER RESPONSIBILITIES.

A flockowner shall:

A. maintain poultry buildings and premises in a sanitary condition;

B. fumigate or sanitize the hatching eggs as soon after laying as possible;

C. maintain identity of hatching eggs;

D. use only new or cleaned and fumigated egg cases;

E. isolate for at least 30 days and test any poultry returning to or being added to the flock;

F. permit inspection of flocks, buildings, and premises at any reasonable time by agents of the board;

G. establish a good biosecurity program; and

H. not raise other poultry on the premises unless they are well segregated or of the same classifications.

1710.1500 AUTHORIZED TESTING AGENTS.

Subpart 1. **Program training course.** A person who wants to become an authorized testing agent shall attend and complete a program training course and perform satisfactory work at a field school. Temporary authorizations may be issued by the board. A veterinarian is not required to attend a program training course.

Subp. 2. **Term of authorization.** Authorization is valid for three years unless revoked or suspended by the board for failure to comply with parts 1710.1300 to 1710.1530 or for performing unsatisfactory work.

Subp. 3. **Fees.** Any authorized testing agent fees must be paid by the flockowner or hatchery.

Subp. 4. **Limitation.** Only testing agents with current authorization may collect samples or conduct Pullorum-Typhoid tests.

Subp. 5. **Records.** All tests must be recorded on an official test chart furnished by the board and the original must be submitted to the board within ten days following completion of the test.

1710.1510 DEALER RESPONSIBILITIES.

A poultry dealer shall:

A. maintain holding areas in a clean and sanitary condition;

B. not keep, maintain, or sell sick poultry and properly dispose of all sick or dead poultry;

C. report to the board any poultry showing signs or diagnosed as having a control program disease;

D. permit inspection of buildings, equipment, vehicles, and records at any reasonable time by agents of the board;

E. use only new or cleaned and disinfected poultry boxes; and

F. maintain adequate records to show the origin and distribution of all poultry for two years. Records must contain the number, breed, sex, and age of the poultry in each transaction.

1710.1520 ADVERTISING.

A person may not advertise poultry or a hatchery for any disease control classification which the poultry or hatchery does not have.

1710.1530 REVOCATION OF PERMIT.

The board may refuse to issue or may revoke a permit or authorization for failure to comply with parts 1710.1300 to 1710.1530. Upon receipt of a written notice of the violations from the board, the recipient has ten days to comply with parts 1710.1300 to 1710.1530. Failure to comply within this time is grounds for refusing to issue or to revoke the permit as well as to charge the violator with misdemeanor charges as applied to Minnesota Statutes, chapter 35. The board shall give written notice of the refusal to issue or the revocation by personal delivery or certified mail. The violator may, within 30 days, file a notice of appeal with the board for a hearing by the board.

REPEALER. Minnesota Rules, parts 1710.0010; 1710.0020; 1710.0030; 1710.0040; 1710.0050; 1710.0060; 1710.0070; 1710.0080; 1710.0090; 1710.0100; 1710.0110; 1710.0120; 1710.0130; 1710.0140; 1710.0150; 1710.0160; 1710.0170; 1710.0180; 1710.0190; 1710.0200; 1710.0210; 1710.0220; 1710.0230; 1710.0240; 1710.0250; 1710.0260; 1710.0270; 1710.0280; 1710.0290; 1710.0300; 1710.0310; 1710.0320; 1710.0330; 1710.0340; 1710.0550; 1710.0560; 1710.0570; 1710.0580; 1710.0590; 1710.0600; 1710.0610; 1710.0620; 1710.0630; 1710.0640; 1710.0650; 1710.0660; 1710.0670; 1710.0680; 1710.0690; 1710.0700; 1710.0710; 1710.0720;

1710.0730; 1710.0740; 1710.0750; 1710.0760; 1710.0770; 1710.0780; 1710.0790; 1710.0800; 1710.0810; 1710.0820; 1710.0830; 1710.0840; 1710.0850; 1710.0860; 1710.0870; 1710.0880; 1710.0890; 1710.0900; 1710.0910; 1710.0920; 1710.0930; 1710.0940; 1710.0950; 1710.0960; 1710.0970; 1710.0980; 1710.0990; 1710.1000; 1710.1010; 1710.1020; 1710.1030; 1710.1040; 1710.1050; 1710.1060; 1710.1070; 1710.1080; 1710.1090; 1710.1100; 1710.1110; 1710.1120; 1710.1130; 1710.1140; 1710.1150; 1710.1160; 1710.1170; 1710.1180; 1710.1190; 1710.1200; 1710.1210; 1710.1220; 1710.1230; 1710.1240; 1710.1250; 1710.1260; 1710.1270; 1710.1280; and 1710.1290, are repealed.

STATE OF MINNESOTA
Board of Animal Health
MAY 23 1991

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 4 1991
Joan Anderson Growe
Secretary of State

10:45 AM PRB

APPROVED AS TO FORM AND LEGALITY
December 3, 1991
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Charlene M. Hatch
SPECIAL ASSISTANT ATTORNEY GENERAL

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: December 4, 1991

TO: KEITH A. J. FRIENDSHUH, DVM
Minnesota Board of Animal Health
Room 119
90 West Plato Boulevard
St. Paul

FROM: CHARLENE HATCHER CH/bjmjc
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Poultry

The above-referenced rule has been approved as to its legality by the Attorney General on December 3, 1991.

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.

CH:sc
Enclosures
cc: Paul Strandberg
William Brown, Chief Judge
MaryAnn Hruby

RULE REVIEW CHECKLIST

File No. 1839
DATE RECEIVED 7-8-91
REVIEW DATE 7-17-91
DUE DATE 7-22-91
(DIS)APPROVED
WITHDRAWN

Docket No. 05 0009 0098
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 7-11-91
REVISOR (DIS)APPROVED 7-16-91
FILED W/SEC. OF STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

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

Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
October 6, 1989 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
35.03 Statutory Authority
Statement Small Business Statement
Expenditure of public money statement
5-6-91 Signature

✓ Statement of Need and Reasonableness (if applicable)
NA Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
May 16, 1991 Dated 30/25 days before adoption
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
May 20, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓* Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of ~~comment period~~ (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
April 19, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
July 3, 1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Paul Strandley Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Stat. Authority
35.03
The board shall make rules necessary to protect the health of domestic animals

180 days
not new material even though Revisor says it is new material

Rules
no justification for 1710.1310 - why 4 months
17.10 1320. no justification new
17.10 1330 - no justification
17.10 1340 no justification
17.10 1370 no justification
17.10 1380 no justification
17.10 1390 no justification
1710.1410 no justification

1710.1420 and 1710.1430 very ~~weak~~ weak justification
1710.1440 - justification why 10 days
1710.1450 — 1710.1455 no justification
1710.1460 — 1710.1490
1710.1520 - no justification
1710.1530 this should be defenetely justified

The board may

17/0.1530 - when does the board refuse or revoke a permit (may)
- why is 10 days reasonable

F

DEPARTMENT: ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: August 23, 1991

TO: KEITH FRIENDSHUH, DVM
Board of Animal Health

FROM: CHARLENE W. HATCHER Cwh
Special Assistant
Attorney General

PHONE: 296-9422

SUBJECT: **Adopted Permanent Rules Relating to Poultry**

Pursuant to our earlier conversations regarding the withdrawal of the above-referenced rule, below I have listed the changes which need to be made to the Statement of Need and Reasonableness. As these sections presently read, they fail to explain or justify the rule. Consequently, the record as it stands does not demonstrate a rational basis for the need for and reasonableness of the proposed rule. Minn. Stat. § 14.23 (1990). See also Minn. Rules pt. 2010.0700 (1990).

1. 1710.1310. There is no justification for this rule. In particular, there is no explanation of why birds over four months of age must be tested.

2. 1710.1320, 1710.1330, 1710.1340, 1710.1370, 1710.1380, 1710.1390, and 1710.1410. There are no explanations stated for any of these rules.

3. 1710.1420 and 1710.1430. Although a brief explanation is written for these two rules, these statements are not sufficient to justify and explain the three page testing chart and the identification procedure.

4. 1710.1435 and 1710.1445. Again, although a brief explanation is written for these two rules, these statements are not sufficient to justify and explain these rules. Specifically, why is it necessary for people to report positive disease results to the board within 48 hours as opposed to some other predetermined period of time. See 1710.1435.

5. 1710.1440, 1710.1450, 1710.1455, 1710.1460, 1710.1470, 1710.1480, and 1710.1490. No explanations are stated for the need for and reasonableness of these rules. The explanation should especially include justification of each of the rules which have numerical mandatories. See 1710.1440 (submission of retesting results within ten days to board); 1710.1455 (release of quarantine requirements if there are two consecutive official negative tests at least 21 days apart regarding remaining flock); and 1710.1470 (flockowners shall isolate for at least 30 days and test any poultry returning to or being added to the flock).

6. 1710.1510 and 1710.1520. There are no justifications for either of these rules. The explanation for 1710.1510 should justify why records concerning the origin and distribution of poultry must be maintained for two years as opposed to some other figure.

7. 1710.1530. Although a brief explanation is stated regarding this rule, it is not sufficient to justify the revocation process. In redrafting the Statement of Need, the reasonableness of the numerical mandatories (10 and 30 days) must be justified.

After the Board has revised the Statement of Need and Reasonableness, the Board should follow the procedure outlined below:

1. A supplemental notice should be inserted in the State Register referring to the earlier Proposed Notice of Rulemaking and stating that the Statement of Need and Reasonableness has been amended and is available to the public in accordance with Minn. Stat. § 14.23. This will give the public another 30 day comment period.

2. If anyone requested a copy of the Statement, or the Statement was sent to a certain list of individuals, those persons should be sent a copy of the amended Statement of Need and Reasonableness.

3. After the new 30 day comment period has run, the rule may be resubmitted to the Attorney General for review. Upon resubmission, the following documents must be submitted in accordance with Minn. Rules part 2010.1300:

   a. The new Statement of Need of Reasonableness.

   b. The Supplemental Notice of Intent to Adopt the rule as published in the State Register and mailed to persons on the agency rulemaking list.

   c. Affidavit of mailing the supplemental notice.

   d. Four copies of the modified rule approved as to form by the revisor of statutes.

   e. Supplemental Findings of Fact and Conclusion and Order adopting the rule.

Please feel free to contact me if you have any questions concerning any matter raised in this memorandum.

CWH:cy.bk8

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES OF THE BOARD OF ANIMAL HEALTH, GOVERNING DISEASES OF POULTRY, (MINNESOTA RULES PARTS 1710.0010 THROUGH 1710.1290)	)))))	STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION.

Minnesota Statutes 29.051 and 35.03 authorize and require 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 subject of this rule amending is the proposed adoption of the rule governing diseases of poultry. The Board has determined that the proposed rule is noncontroversial because it was requested by and is supported by the industry. Because of the noncontroversial nature of this rule, the Board is proceeding according to Minnesota Statutes, Sections 14.21 to 14.28 and this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW.

The current rules of the Board, under MN Statutes 35, provide for the;

CONTROL AND ERADICATION OF PULLORUM-TYPHOID DISEASE IN POULTRY AND OTHER DOMESTICATED FOWL (1710.0010 - 1710.0340)

CONTROL OF MYCOPLASMA IN POULTRY (1710.0550 - 1710.0880)

CONTROL OF SALMONELLA TYPHI-MURIUM DISEASE IN TURKEYS (1710.0890 - 1710.1200)

DEALING IN POULTRY BY DEALERS (1710.1210 - 1710.1290).

These four rules are being repealed and then are being combined into one rule. The reasons for this are;

First, all 4 of the rules need to be revised. The Dealer rule has not been changed since 1948, the Pullorum/Typhoid rule for 16 years and the other two for 8 years. During this time the poultry industry has made many advances and parts of the rules are outdated.

Second, the same or similar requirements are repeated in several of the rules.

Third, because they were written at different times, the rules define many of the same words differently in each rule. This is very confusing to the industry because the tests are conducted on a flock basis for all of the programs. For example, **POULTRY** is defined in 3 of the rules, each time differently;

1. "Poultry" shall mean turkeys and chickens.
2. "Poultry" shall mean turkeys, chickens, and other poultry.
3. "Poultry" shall mean and refer to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and any other domestic birds.

The request for revising the poultry rules was initiated by the industry. They have been free of Mycoplasma synoviae since 1982 and Mycoplasma gallisepticum long before that. The program has been voluntary and all chicken and turkey breeder flocks are participating in it. Since they are doing all the testing and

meeting all the requirements of the National Poultry Improvement Plan (NPIP), a state/federal program, they need an updated rule to deter introduction of diseases into their flocks.

Another reason the poultry rules need to be revised is that over the years there have been changes in the NPIP program. An example is the Sanitation Monitored program. It is available to both chicken and turkey breeders, but is required for Egg-type chicken breeders by federal law. Our rules now do not have the Sanitation Monitored program or any of the required testing in them. Even though, it is not necessary to change the rule every time there is a change in the NPIP program, it is reasonable that the requirements will be easier to understand if they are the same.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES.

a) The following proposed parts are unchanged from one or more of the old rules;

1710.1310 came from 1710.0020, the last part of 1710.0050, 1710.0170 and 1710.0580.

1710.1320 came from the first part of 1710.0050.

1710.1330 came from 1710.0060, 1710.0580, and 1710.1220.

1710.1340 came from 1710.0320.

1710.1370 came from 1710.0080, 1710.0570 and 1710.0930.

1710.1390 came from 1710.0330, 1710.0800 and 1710.1200.

1710.1400 came from 1710.0070, 1710.0950 and 1710.1230.

1710.1410 came from 1710.0160, 1710.0200, 1710.0650 and 1710.1010.

1710.1440 came from 1710.0240, 1710.0700, 1710.0860 and 1710.1060.

1710.1450 came from 1710.0240 and 1710.0870.

1710.1455 came from 1710.0240 (last part) and 1710.0250 (first part).

1710.1460 came from 1710.0250 (last part), 1710.0260 (last part) and 1710.1080.

1710.1470 came from 1710.0270.

1710.1480 came from 1710.0290, 1710.0770 and 1710.1170.

1710.1490 came from 1710.0300, 1710.0780 and 1710.1180.

1710.1510 came from 1710.1230, 1710.1250, 1710.1270, 1710.1280 and 1710.1290.

1710.1520 came from 1710.0310, 1710.0790 and 1710.1190.

1710.1530 came from 1710.0950, 1710.0070 and 1710.1230.

b) The following proposed parts are new or changed;

1710.1300 DEFINITIONS.

Most of the definitions are the same but some are changed because of the inconsistencies noted previously or because of changes in the industry. Also, some new definitions are added. These changes are a necessary and reasonable part of the rule.

1710.1350 REQUIRED PARTICIPATION.

This rule requires participation in certain programs that were voluntary before. These changes were requested by the industry and are necessary to protect their flocks and are reasonable because the industry is now doing all of the required testing and are free of these diseases. If a flock would become infected with one of these diseases, it would be quarantined and could not be used as a breeder flock.

1710.1360 VOLUNTARY PARTICIPATION.

This rule is necessary to set the testing schedules to control and eradicate other diseases without the industry being penalized for having them. It is reasonable because it helps produce healthier flocks.

1710.1380 FLOCK PARTICIPATION.

This rule came from old rules 1710.0090, 1710.0720 and 1710.1110. The provision in 1710.0090 to exclude waterfowl from being tested was removed since it has not been used nor allowed for at least ten years (Since the NPIP allowed the testing of waterfowl via hatchery
debris instead of blood testing). Therefore, it is not reasonable nor necessary to have this exclusion.

1710.1420 TESTING SCHEDULE.

This rule reflects the testing being conducted by the poultry industry, much of it on a voluntary basis, to be in compliance with the NPIP programs. This rule is necessary to reflect the changes in the NPIP program and it is reasonable to have the rule up to the industry standards.

1710.1430 IDENTIFICATION.

The old rules (1710.0220 and 1710.1030) stated that all birds tested must be identified. Since many of the tests are conducted on a sampling of birds for the entire flock and if a sample is positive the flock is positive, the identification of every bird being tested is no longer necessary. The new rule still states that if further testing is required, the individual birds must be identified. This rule covers what is necessary and is much more

reasonable than the old rules.

1710.1435 DIAGNOSTIC SERVICES and

1710.1445 INVESTIGATION.

These rules are required by NPIP. If a state does not have this authority, no flocks in the state can participate in any of the NPIP programs. Therefore, it is necessary and reasonable to have these rules.

1710.1500 AUTHORIZED TESTING AGENTS.

The only change in this rule is in Subpart 2 and that changes the term of authorization from annually to every three years. Since many of the 300 authorized agents have been testing for 20 or 30 years and none have been revoked, it is necessary and reasonable to reduce both their and the Board's paperwork.

c) The following parts were deleted from the old rules and not replaced in the proposed rule;

1710.0750 SEPARATE FACILITIES.

Since the industry would not allow a Mycoplasma gallisepticum positive breeder flock to be used nor would there be a market for the eggs, it is not necessary nor is it reasonable to have this section in the rule.

1710.0940 CERTIFICATES.

Since certificates have not been used for at least ten years, it is no longer necessary or reasonable to have this section in the rule.

1710.1160 REMOVAL OF FLOCKS.

Since section 1710.1380 of the proposed rule states that only birds of the same or comparable classification may be added to a

flock, it is no longer necessary or reasonable to have this section in the rule.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULE.

In assessing the economic impact of the proposed changes, the Board is not adding anything that the industry is not doing already. When considering the effect upon small businesses, the rule will have no increased economic costs.

The only new or more stringent compliance standards are those that the industry has asked for and is already meeting.

_____ _____

DATE

T. J. HAGERTY, DVM
EXECUTIVE SECRETARY
BOARD OF ANIMAL HEALTH

In the Matter of the Proposed
Rule of the State Board of
Animal Health Governing Diseases
of Poultry.

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

KEITH FRIENDSHUH, 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 Minnesota Board of Animal Health rulemaking mailing list is accurate, complete and current as of this sixteenth day of May, 1991.

Keith Friendshuh, DVM
Veterinarian In Charge
Poultry Diseases

Subscribed and sworn to before
me this 16 day of May, 1991.

Marian S. Comford

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

BOARD OF ANIMAL HEALTH

NOTICE OF INTENT AND COPY OF AMENDED POULTRY DISEASES RULES SENT TO THE FOLLOWING:

MAILED 5/16/91

John Hausladen — Minnesota Turkey Grower's Assoc.
678 Transfer Rd.
St. Paul, MN 55114

Greg Reigstad — Minnesota Poultry Industries Assoc.
P.O. Box 185
St. Cloud, MN 56302

Roger Boros — Minnesota Pheasant & Waterfowl Soc.
8189 St. Croix Tr. So.
Hastings, MN 55033

Judy Goodwater — Minnesota Game Breeders Club
RR 2 Box 210
Austin, MN 55912

Adrian J. Rademacher — Minnesota State Poultry Assoc.
9185 Co. Rd. 10 E
Waconia, MN 55387

Dr. Ben Pomeroy — University of MN
1443 Raymond Ave. (res.)
St. Paul, MN 55108

Dr. David Halvorson, Assoc. Prof. Univ. of MN
Dept. of Vet. Path./Avian Health
1971 Commonwealth Ave.
St. Paul, MN 55108

Dr. John Newman — University of MN
Dept. of Vet. Path./Avian Health
1971 Commonwealth Ave.
St. Paul, MN 55108

Dr. M. C. Kumar — E. B. Olson Farms
Atwater Laboratory
P.O. Box 439
503 Pleasant Ave. E.
Atwater, MN 56209

Mr. Ted Huisinga — (Board Member and Willmar Pltry. Co.)
RR 4
Willmar, MN 56201

Mr. Kenneth Money
209 Grove St. NE Box B
Silver Lake, MN 55381
American Selected Products, Inc.

Mr. Orval Gartner
P.O. Box 10
Mapleton, MN 56065
Gartner Poultry Farm

Mr. Mark Johnson
Box 1106
St. Cloud, MN 56302
Jack Frost Hatchery

Mr. Dennis Alberts
PO Box 247
190 3rd St. So.
Dassel, MN 55325
Midwest Htcy. & Poultry Farms, Inc.

Mr. Doug Tidyman
PO Box 200
Jackson, MN 56143
Cuddy Farms, Inc.

Mr. Jeffrey Trites
375 Frederick Lane
Henning, MN 56551
Henning Hatchery, Inc.

Dr. Dave Mills
1005 E. Division Ave.
Barron, WI 54812
Jerome Turkey Hatchery

Mr. Helmut Miehlisch
Box 113
Rt. 2
Lanesboro, MN 55949
Independent Flockowner

Mr. Dick Peterson
Rt. 1 Box 3
Cannon Falls, MN 55009
Peterson Turkey Hatchery

Mr. Mitch Roe
P.O. Box 185
Altura, MN 55910
Simmons Poultry Farms

Mr. Kenneth Bartley
P.O. Box 706
Detroit Lakes, MN 56501
Swift - Eckrich Co.

Mr. Fred Huebsch
Box 220 Rt. 3
Perham, MN 56573
Turkey Eggs MN

Mr. Marvin Mickelson
Rt. 3 Box 39
Frazee, MN 56544

Turkey Eggs MN

Mr. Larry Gates
Box 753
369 Co. Rd. 5 SW
Willmar, MN 56201

Willmar Poultry Co.

OFFICIAL (BOARD OF ANIMAL HEALTH) HEARING LIST

4-5-90

City of Greenbush
Box 98
Greenbush, MN
56726

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~~ Gone, 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~~ DEBRA McDERMOTT JOHNSON
~~Nerstrand, MN 55053~~
823 N Carlton St
Barnum, MN 55707

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

11-9A LET RETURNED

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~~
new address

KARYL DRONEN, PRES.
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

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

L & G Prine Hogs
Jerry Lord
Box 198
Lake Park, MN 56554

Dr. Jack Flint
898 County Road I
Shorview, MN ~~51526~~ 55126

Dr. Paul Anderson
5635 143rd St. W.
Apple Valley, MN 55124

Headquarters/Sales Office
707 East 41st St. Suite 222
Sioux Falls, SD 57105
Ph. (605) 338-4642
FAX (605) 338-9765

Affiliates
Sonstegard Foods, Inc.
Howard Lake, MN
Estherville Foods, Inc.
Estherville, IA
Siouxpreme Egg Products Co., Inc.
Sioux Center, IA
Sonstegard Foods of Georgia
Gainesville, GA

SONSTEGARD FOODS CO.

404-534-5442

5/29/91

Dr. Keith Friendshuh - DVM
Minnesota Board of Health
Room 119
90 W. Plato Blvd.
St. Paul, Mn. 55107

Dear Dr. Friendshuh:

Please send me a copy of rules that are being changed or are being considered for change without a public hearing. Please send only those relating to the poulty industry.

The purpose of this letter is to request that a public hearing be held.

Please respond as soon as possible.

Thank you.

Sincerely,
SONSTEGARD FOODS COMPANY
Phil D. Sonstegard DVM

Dr. Phil Sonstegard -DVM
President

POS/jm

sent copy of rule 5-31-91 pi

...SOTA

MAY 3 1 1991

Board of Animal Health

In the Matter of the Adoption of the Rule of the State Board of Animal Health Governing Diseases of Poultry.

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 ~~0014~~ 0098

Paul Strandberg
Special Assistant Attorney General

Dated: 7/3/91

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

CERTIFICATE OF THE

MINNESOTA BOARD OF ANIMAL HEALTH

RESOLUTION ADOPTING THE RULE

I, 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, duly and properly called and held on the 19th day of April, 1991, 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 Poultry, Parts 1710.1300 - 1710.1530, is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes 35.03.

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 further is authorized to modify the rule if necessary to obtain the approval of the rule by the Attorney General 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 19th day of April, 1991.

Sharon I. Hurley

Sharon I. Hurley, President
Minnesota Board of Animal Health

Jack Delaney

Attested by: Board Member

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 Poultry

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, section 35.03.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the board will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: Keith A. J. Friendshuh, DVM, Minnesota Board of Animal Health, Room 119, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-3428.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the board and do not result in a substantial change in the proposed rule as noticed.

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Dr. Friendshuh.

The board has determined that this rule will have no significant negative impact on small businesses.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Dr. Friendshuh.

Dated: 6 May 1991

STATE OF MINNESOTA

T. J. Hagerty, DVM
Executive Secretary

Rules as Proposed (all new material)

1710.1300 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1710.1300 to 1710.1530.

Subp. 2. **Authorized agent.** "Authorized agent" means a person not employed by the board but designated and authorized by the board to perform functions under parts 1710.1300 to 1710.1530.

Subp. 3. **Baby poultry.** "Baby poultry" means newly hatched poultry that have not been fed or watered.

Subp. 4. **Board.** "Board" means the Minnesota Board of Animal Health.

Subp. 5. **Chickens.** "Chickens" means meat-type and egg-type chickens, but not exhibition, fancy, or game chickens.

Subp. 6. **Control program.** "Control program" means one or more of the state or state and federal cooperative programs for the control or eradication of poultry diseases.

Subp. 7. **Deal; dealing.** "Deal" and "dealing" mean the purchase and resale, for any purpose except immediate slaughter, of any live poultry not owned by the seller since the hatching of those poultry.

Subp. 8. **Dealer.** "Dealer" means a person, firm, association, partnership, or corporation engaged in dealing in poultry.

Subp. 9. **Disease control classification.** "Disease control classification" means the negative status of a flock as pertaining to one or more of the control program diseases.

Subp. 10. **Environmental sample.** "Environmental sample" means a dust, litter, or swab sample taken from a building according to plan procedures.

Subp. 11. **Flock.** "Flock" means poultry maintained and segregated for at least 21 days as one group of birds on one premises.

Subp. 12. **Flockowner.** "Flockowner" means a person who owns or is in charge of a flock or flocks of poultry.

Subp. 13. **Hatchery.** "Hatchery" means buildings and equipment on one premises operated or controlled for the purpose of hatching poultry.

Subp. 14. **Hatchery debris.** "Hatchery debris" includes hatcher fluff or egg shells, meconium, or dead germ eggs.

Subp. 15. **Hatching egg dealer.** "Hatching egg dealer" means a person in the business of selling, trading, or exchanging poultry hatching eggs owned by the person or for participating flockowners, independent flockowners, or other hatcheries.

Subp. 16. **Multiplier breeding flock.** "Multiplier breeding flock" means a flock intended for the production of progeny for commercial egg or meat production or for other nonbreeding purposes.

Subp. 17. **Nonparticipant.** "Nonparticipant" means a person who has not signed an agreement with the board or whose agreement has expired or been canceled.

Subp. 18. **Official laboratory.** "Official laboratory" means a laboratory authorized by the board through the cooperative plan to test poultry for program diseases.

Subp. 19. **Other domesticated fowl.** "Other domesticated fowl" means fancy, exhibition, and game chickens, waterfowl, and game birds maintained in captivity, excluding pigeons and doves.

Subp. 20. **Participant.** "Participant" means a person who has signed an agreement with the board that has not expired or been canceled.

Subp. 21. **Plan.** "Plan" means poultry disease control programs of the federal government with which the state cooperates. The board is the official agency for purposes of administering these programs.

Subp. 22. **Positive flock.** "Positive flock" means a flock in which one or more birds are diagnosed with a control program disease.

Subp. 23. **Poultry.** "Poultry" means turkeys, chickens, and other domesticated fowl.

Subp. 24. **Primary breeding flock.** "Primary breeding flock" means a flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

Subp. 25. **Products.** "Products" means live poultry and hatching eggs.

Subp. 26. **Reactor.** "Reactor" means a bird that has a positive test to a control program disease.

Subp. 27. **Recycled.** "Recycled" means a flock that is molted for the purpose of coming back into production as a breeder flock.

Subp. 28. **Started poultry.** "Started poultry" means young poultry that have been fed and watered.

Subp. 29. **State inspector.** "State inspector" means a person employed by the board to perform functions under the plan and parts 1710.1300 to 1710.1530.

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.

Subp. 30. **Supervision.** "Supervision" means the direct inspection or critical evaluation by a state inspector.

Subp. 31. **Turkeys.** "Turkeys" means domestic, exhibition, and wild turkeys maintained in captivity.

GENERAL PROVISIONS

1710.1310 SALE OF POULTRY AND HATCHING EGGS.

No person may sell, offer for sale, purchase, or trade poultry less than four months of age and their hatching eggs unless they originate from flocks and hatcheries operating under the supervision of the board and parts 1710.1300 to 1710.1530. Birds over four months of age must be tested and be negative for the appropriate required tests before being sold, except those sold for immediate slaughter.

1710.1320 EXEMPTIONS.

Parts 1710.1300 to 1710.1530 do not apply to a person hatching eggs from the person's breeding flocks, if the eggs and progeny are maintained on the same premises and are not sold except to slaughter.

1710.1330 PERMITS.

No person may conduct or operate buildings and equipment for the purpose of incubating and hatching eggs or otherwise handling, brooding, selling, or dealing in baby or started poultry, unless a permit is obtained from the board. Requirements for a permit are a completed application, necessary testing, and a satisfactory inspection report. Permits are annual with the renewal date set by the board.

1710.1340 BOARD PARTICIPATION.

The board may participate in federal disease control programs for poultry. Breeder flocks and hatcheries signing up for any of these disease control programs must comply with all applicable provisions for obtaining and maintaining the program disease classifications agreed upon.

1710.1350 REQUIRED PARTICIPATION.

All hatcheries, dealers, and poultry breeder flocks shall participate in the Salmonella pullorum/gallinarum disease control program. In addition, turkey and chicken breeder flocks and hatcheries shall participate in the Mycoplasma gallisepticum (MG) and the Mycoplasma synoviae (MS) programs, except exhibition and wild turkeys are exempt from the MS program, and egg-type chicken breeder flocks and hatcheries must participate in the sanitation monitored program for Salmonella enteritidis. A required participation flock that is positive to any of these diseases must be quarantined and may not be used as a breeder flock for the production of hatching eggs.

1710.1360 VOLUNTARY PARTICIPATION.

Hatcheries and breeder flock owners may volunteer to participate in any other available disease control programs. Use of a breeder flock positive to any of these diseases disqualifies the hatchery and flock from classifications for these diseases.

1710.1370 HATCHERY PARTICIPATION.

If more than one hatchery is operated under the same ownership or management, all the hatcheries shall attain and maintain the same disease control classifications for all products interchanged. Flocks and hatcheries supplying a hatchery shall attain and maintain the same disease control classifications as the receiving hatchery.

1710.1380 FLOCK PARTICIPATION.

Flocks of poultry to be used for breeding under the board's supervision must be tested at the disease control participation level applied for according to parts 1710.1300 to 1710.1530 and follow all plan provisions. Only birds of the same or comparable classification may be added to a flock. The addition of poultry without the same or comparable classifications causes loss of those classifications.

1710.1390 LOSS OF CLASSIFICATION.

Poultry products produced under a plan agreement lose their classification when consigned to or received by a person without the same classification or by a nonparticipant. A hatchery or flock loses its disease control classification if any of its birds are considered positive in that disease classification.

1710.1400 SUSPENSION OR REVOCATION OF PERMIT.

Failure to comply with parts 1710.1300 to 1710.1530 is grounds to revoke or suspend the permit and the hatchery may lose disease control classifications.

1710.1410 TEST PROCEDURES.

Tests, procedures, and antigens used in the control of poultry diseases must be approved by the board according to plan programs, except the board may approve the use of other comparable tests, procedures, and antigens.

1710.1420 TESTING SCHEDULE.

Subpart 1. **Chicken; egg-type and meat-type.**

Disease	Type of Flock	Initial Test 16 to 20 weeks of age or start of laying for recycled flocks	Monitoring During Laying Period
Pullorum-Typhoid	Primary	300 blood tests	None
	Multiplier	No test required	None
	Recycled	No test required	None
Mycoplasma gallisepticum	Primary Multiplier Recycled	300 blood samples 150 blood samples with a minimum of 50 per barn	150 blood samples every 90 days 75 blood samples with minimum of 30 per pen every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	
Mycoplasma synoviae	Primary Multiplier Recycled	300 blood samples 150 blood samples with a minimum of 50 per barn	150 blood samples every 90 days 75 blood samples every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	

	Age	Type of sample
Sanitation monitored for Salmonella (egg-type only)	0 to 7 days	Originate from sanitation monitored primary breeder or a sample of 30 1st 7-day deads and memeconium.
	16 to 20 weeks	300 blood samples* and 15 environmental samples**
	Laying period	15 environmental samples** per month from each flock
Started poultry	Before hatching	Cleaned and disinfected brooder barns and 15 drag swabs cultured negative
	7 to 10 days	Early mortality sample and 15 environmental samples**
	12 to 18 weeks	15 environmental samples**
Sanitation monitored for Salmonella (meat-type only)	4 months of age	15 environmental samples
	Laying period	15 environmental samples every 90 days

*culture reactors - maximum of 25

**If Salmonella enteritis is isolated, then 60 birds must be examined bacteriologically for Salmonella.

Subp. 2. **Turkey.**

Disease	Type of Flock	Initial Test 12 to 20 weeks of age or start of laying for recycled flocks	Monitoring during Laying Period
Pullorum-Typhoid	Primary	300 blood samples	None
	Multiplier	No test required	None
	Recycled	No test required	None

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Salmonella Typhimurium	Primary Multiplier	100 percent blood test or 500 blood samples** and 500 rectal swabs* per flock with a minimum of 100 of each per barn	30 environmental samples per barn
	Recycled	500 rectal swabs or 30 environmental samples at start of molting period	30 environmental samples per barn
Mycoplasma gallisepticum	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age
Mycoplasma meleagridis	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter
Mycoplasma synoviae	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter

	Age	**Type of sample**
Sanitation monitored for Salmonella spp.	0 to 10 days	Hatchery debris or a sample of 30 1st 10-day deads and 15 environmental samples from cleaned and disinfected building before new candidate breeding flock is placed
	12 to 20 weeks	30 environmental samples (may use swabs from Salmonella typhimurium testing)
	35 to 50 weeks (midlay)	30 environmental samples once and hatchery debris or a sample of 30 1st 10-day deads on a monthly basis
	End of production	30 environmental samples (before barn cleaned)

*If salmonella typhimurium is cultured from two or more rectal swabs or birds the flock is considered positive.
**Serological reactors shall be submitted to the state laboratory within ten days for culture.

Subp. 3. **Waterfowl, exhibition, and game birds.**

Disease	**Type of Flock**	**Initial Test**	**Monitoring**
Pullorum-Typhoid (100% test-first year)	Primary	100 birds blood tested per flock	None
	Primary waterfowl and game birds	100 blood tests per flock or an approved monitoring program	
	Waterfowl only		Bacterial exam of hatchery debris from each hatch
	Multiplier	No testing required	
Mycoplasma gallisepticum	Primary	Blood samples from all birds or from 300 per flock	Blood samples every 90 days - 5% of flock with minimum of 100; or every 30 days - 30 cull baby poultry or 30 eggs
	Multiplier	Blood samples from 50% of birds with maximum - 200 per flock minimum - 30 per flock	Blood samples every 90 days - 2% with minimum of 30 per pen; or every 30 days - 30 cull baby poultry or 30 eggs

1710.1430 IDENTIFICATION.

If further testing is required, all poultry must be identified in such a way as to be individually found when the test is completed and all positive birds must be identified with a leg or wing band. Poultry tested for sale or exhibition must be identified with a leg or wing band.

1710.1435 DIAGNOSTIC SERVICES.

A person performing poultry diagnostic services shall report to the board, within 48 hours, the source of specimens that are positive to a disease for which there is a control program.

1710.1440 REACTORS.

Birds positive to any of the control program diseases are considered reactors. Reactors may be retested according to board and plan procedures. If retesting is required, reactors must be submitted to the laboratory within ten days.

1710.1445 INVESTIGATION.

The board shall conduct an investigation as to the origin of a disease infection in a flock for which there is a required program.

1710.1450 QUARANTINE.

Flocks positive to required participation disease control tests are quarantined. No products may be used from these flocks and the birds may only be sold to slaughter under permit from the board.

1710.1455 RELEASE OF QUARANTINE.

A quarantine imposed under part 1710.1450 must be released and the flock requalifies for participation in the disease control program:

A. if all cultures of the reactor birds are negative; or

B. for the Pullorum-Typhoid program, if all reactor birds are slaughtered, and there are two consecutive official negative tests, at least 21 days apart on all of the remaining birds.

1710.1460 CLEANING AND DISINFECTING.

After removal of a positive flock, the premises must be carefully cleaned and disinfected under official supervision according to plan procedures.

1710.1470 ADDITIONAL TESTING.

The board may conduct or require additional testing or other protective measures if the board considers it necessary.

1710.1480 HATCHERY RESPONSIBILITIES.

Hatchery management shall:

A. identify products as to source;

B. clean and disinfect incubators, hatchers, and trays after each hatch according to plan procedures;

C. fumigate or sanitize hatching eggs according to plan procedures;

D. maintain incubator rooms, brooder rooms, and other hatchery areas in a sanitary condition and isolate the brooder room in a manner satisfactory to the board;

E. use only new or cleaned and disinfected poultry boxes;

F. not hatch or custom hatch eggs unless they originate from sources with the same or comparable disease control classifications as the hatchery;

G. permit inspection of buildings, equipment, and records at any reasonable time by agents of the board; and

H. maintain adequate records to show origin of all hatching eggs and destination of baby poultry for the current year and the previous year.

1710.1490 FLOCKOWNER RESPONSIBILITIES.

A flockowner shall:

A. maintain poultry buildings and premises in a sanitary condition;

B. fumigate or sanitize the hatching eggs as soon after laying as possible;

C. maintain identity of hatching eggs;

D. use only new or cleaned and fumigated egg cases;

E. isolate for at least 30 days and test any poultry returning to or being added to the flock;

F. permit inspection of flocks, buildings, and premises at any reasonable time by agents of the board;

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G. establish a good biosecurity program; and

H. not raise other poultry on the premises unless they are well segregated or of the same classifications.

1710.1500 AUTHORIZED TESTING AGENTS.

Subpart 1. **Program training course.** A person who wants to become an authorized testing agent shall attend and complete a program training course and perform satisfactory work at a field school. Temporary authorizations may be issued by the board. A veterinarian is not required to attend a program training course.

Subp. 2. **Term of authorization.** Authorization is valid for three years unless revoked or suspended by the board for failure to comply with parts 1710.1300 to 1710.1530 or for performing unsatisfactory work.

Subp. 3. **Fees.** Any authorized testing agent fees must be paid by the flockowner or hatchery.

Subp. 4. **Limitation.** Only testing agents with current authorization may collect samples or conduct Pullorum-Typhoid tests.

Subp. 5. **Records.** All tests must be recorded on an official test chart furnished by the board and the original must be submitted to the board within ten days following completion of the test.

1710.1510 DEALER RESPONSIBILITIES.

A poultry dealer shall:

A. maintain holding areas in a clean and sanitary condition;

B. not keep, maintain, or sell sick poultry and properly dispose of all sick or dead poultry;

C. report to the board any poultry showing signs or diagnosed as having a control program disease;

D. permit inspection of buildings, equipment, vehicles, and records at any reasonable time by agents of the board;

E. use only new or cleaned and disinfected poultry boxes; and

F. maintain adequate records to show the origin and distribution of all poultry for two years. Records must contain the number, breed, sex, and age of the poultry in each transaction.

1710.1520 ADVERTISING.

A person may not advertise poultry or a hatchery for any disease control classification which the poultry or hatchery does not have.

1710.1530 REVOCATION OF PERMIT.

The board may refuse to issue or may revoke a permit or authorization for failure to comply with parts 1710.1300 to 1710.1530. Upon receipt of a written notice of the violations from the board, the recipient has ten days to comply with parts 1710.1300 to 1710.1530. Failure to comply within this time is grounds for refusing to issue or to revoke the permit as well as to charge the violator with misdemeanor charges as applied to *Minnesota Statutes*, chapter 35. The board shall give written notice of the refusal to issue or the revocation by personal delivery or certified mail. The violator may, within 30 days, file a notice of appeal with the board for a hearing by the board.

REPEALER. *Minnesota Rules*, parts 1710.0010; 1710.0020; 1710.0030; 1710.0040; 1710.0050; 1710.0060; 1710.0070; 1710.0080; 1710.0090; 1710.0100; 1710.0110; 1710.0120; 1710.0130; 1710.0140; 1710.0150; 1710.0160; 1710.0170; 1710.0180; 1710.0190; 1710.0200; 1710.0210; 1710.0220; 1710.0230; 1710.0240; 1710.0250; 1710.0260; 1710.0270; 1710.0280; 1710.0290; 1710.0300; 1710.0310; 1710.0320; 1710.0330; 1710.0340; 1710.0550; 1710.0560; 1710.0570; 1710.0580; 1710.0590; 1710.0600; 1710.0610; 1710.0620; 1710.0630; 1710.0640; 1710.0650; 1710.0660; 1710.0670; 1710.0680; 1710.0690; 1710.0700; 1710.0710; 1710.0720; 1710.0730; 1710.0740; 1710.0750; 1710.0760; 1710.0770; 1710.0780; 1710.0790; 1710.0800; 1710.0810; 1710.0820; 1710.0830; 1710.0840; 1710.0850; 1710.0860; 1710.0870; 1710.0880; 1710.0890; 1710.0900; 1710.0910; 1710.0920; 1710.0930; 1710.0940; 1710.0950; 1710.0960; 1710.0970; 1710.0980; 1710.0990; 1710.1000; 1710.1010; 1710.1020; 1710.1030; 1710.1040; 1710.1050; 1710.1060; 1710.1070; 1710.1080; 1710.1090; 1710.1100; 1710.1110; 1710.1120; 1710.1130; 1710.1140; 1710.1150; 1710.1160; 1710.1170; 1710.1180; 1710.1190; 1710.1200; 1710.1210; 1710.1220; 1710.1230; 1710.1240; 1710.1250; 1710.1260; 1710.1270; 1710.1280; and 1710.1290, are repealed.

Department of Natural Resources

Proposed Permanent Rules Relating to Parks and Recreation Areas

Notice of Intent to Adopt Rule Amendments Without a Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources—Division of Forestry intends to adopt the

Board of Animal Health

In the Matter of the Proposed Rule of the State Board of Animal Health Governing Diseases of Poultry

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22-14.28. The statutory authority to adopt this rule is Minnesota Statutes, section 35.03.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. (7) If a public hearing is required, the board will proceed according to Minnesota Statutes, sections 14.131-14.20.

(5) Comments or written requests for a public hearing must be submitted to: Keith A. J. Friendshuh, DVM, Minnesota Board of Animal Health, Room 119, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-3428.

(8) The proposed rule may be modified if the modifications are supported by the data and views submitted to the board and do not result in a substantial change in the proposed rule as noticed.

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

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Dr. Friendshuh.

(14) The board has determined that this rule will have no significant negative impact on small businesses.

(9) If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Dr. Friendshuh.

6-3/

Date

STATE OF MINNESOTA

T. J. Hagerty, DVM
Executive Secretary

STATE OF MINNESOTA
OFFICE INFORMATION MEMO

DATE 5/1 | TIME

TO Keith Friendshuh | LOCATION Animal Health

FROM Carol Milligan | LOCATION

PHONE NO. ( ) 6-6906 | MESSAGE TAKEN BY

☐ Called ☐ Please call ☐ Was here to see you
☐ Urgent ☐ Will call again ☐ Returned your call

ACTION
☐ As we discussed ☐ For your information ☐ Per voice mail
☒ As you requested ☐ For your approval ☐ Take appropriate action
☐ Review and see me ☐ For signature ☐ Prepare reply for my sig.
☐ Review and return ☐ Notify staff ☐ Reply and send me copy
☐ File ☐ Dispose

PHOTOCOPY
___ No. of copies ☐ One side only ☐ Collate
___ Date needed ☐ Head to head ☐ Staple
☐ Head to foot ☐ Other

TYPING 6-1143 - Date needed
☐ Rough draft ☐ Final copy
☐ Single space ☐ Memo
☐ Double space ☐ Letterhead
☐ Rush ☐ Carbons

REMARKS/MESSAGES
Legislative Commission to Review Administrative Rules
Mary anne Hruby
Room 55
State Office Bldg.
☐ Over

INNESOTA

MAL HEALTH

) STATEMENT OF NEED
) AND REASONABLENESS
)
.1290))

rizes and requires the Minnesota
: referred to as the "Board") to
e health of Minnesota's domestic
rule amending is the proposed
eases of poultry. The Board has
is noncontroversial because it
was requested by and is supported by the industry. Because of the noncontroversial nature of this rule, the Board is proceeding according to Minnesota Statutes, Sections 14.21 to 14.28 and this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW.

The current rules of the Board, under MN Statutes 35, provide for the;

CONTROL AND ERADICATION OF PULLORUM-TYPHOID DISEASE IN POULTRY AND OTHER DOMESTICATED FOWL (1710.0010 - 1710.0340)

CONTROL OF MYCOPLASMA IN POULTRY (1710.0550 - 1710.0880)

Office of the Revisor of Statutes
Administrative Rules

Craig E. Lindeke
Senior Assistant Revisor
296-0946

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

May 22, 1991

Dr. Keith Friendshuh
Board of Animal Health
90 West Plato Boulevard
St. Paul, MN 55107

RE: File No. 1849

Dear Dr. Friendshuh:

Enclosed are stripped copies of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

CEL/cs

Craig E. Lindeke

STATE OF MINNESOTA
MAY 23 1991
Board of Animal Health

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

AUTHORIZING RESOLUTION

I, Dr. 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, the 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 amend the following rules without a Public Hearing 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. The rules involved are governing:

1. Control and Eradication of Pullorum-Typhoid Disease in Poultry and Other Domesticated Fowl

   Parts 1710.0010 - 1710.0340.

2. Control of Mycoplasma in Poultry

   Parts 1710.0550 - 1710.0880.

3. Control of Salmonella Typhi-Murium Disease in Turkeys

   Parts 1710.0890 - 1710.1200

4. Dealing in Poultry by Dealers

   Parts 1710.1210 - 1710.1290

These parts are to all be repealed and a new rule, beginning with Part 1710.1300 - will be written to combine all four of them into one. The new rule will incorporate some changes."

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

Sharon Hurley, President
Board of Animal Health

Attest by one other Board Member

In the Matter of the Proposed Adoption of the Rule of the State Board of Animal Health Governing Diseases of Poultry

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eugene Kirchoff, being sworn, says:

That on the sixteenth day of May, 1991, 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 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 Minnesota Board of Animal Health rulemaking mailing list.

Eugene H. Kirchoff
Eugene Kirchoff

Subscribed and sworn to before me
this 16 day of May, 1991.

Marian S. Comford

MARIAN S. 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 THE RULES OF THE BOARD OF ANIMAL HEALTH, GOVERNING DISEASES OF POULTRY, (MINNESOTA RULES PARTS 1710.0010 THROUGH 1710.1290)	))))	STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION.

Minnesota Statutes 35.03 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 subject of this rule amending is the proposed adoption of the rule governing diseases of poultry. The Board has determined that the proposed rule is noncontroversial because it was requested by and is supported by the industry. Because of the noncontroversial nature of this rule, the Board is proceeding according to Minnesota Statutes, Sections 14.21 to 14.28 and this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW.

The current rules of the Board, under MN Statutes 35, provide for the;

CONTROL AND ERADICATION OF PULLORUM-TYPHOID DISEASE IN POULTRY AND OTHER DOMESTICATED FOWL (1710.0010 - 1710.0340)

CONTROL OF MYCOPLASMA IN POULTRY (1710.0550 - 1710.0880)

CONTROL OF SALMONELLA TYPHI-MURIUM DISEASE IN TURKEYS (1710.0890 - 1710.1200)

DEALING IN POULTRY BY DEALERS (1710.1210 - 1710.1290).

These four rules are being repealed and then are being combined into one rule. The reasons for this are;

First, all 4 of the rules need to be revised. The Dealer rule has not been changed since 1948, the Pullorum/Typhoid rule for 16 years and the other two for 8 years. During this time the poultry industry has made many advances and parts of the rules are outdated.

Second, the same or similar requirements are repeated in several of the rules.

Third, because they were written at different times, the rules define many of the same words differently in each rule. This is very confusing to the industry because the tests are conducted on a flock basis for all of the programs. For example, **POULTRY** is defined in 3 of the rules, each time differently;

1. "Poultry" shall mean turkeys and chickens.
2. "Poultry" shall mean turkeys, chickens, and other poultry.
3. "Poultry" shall mean and refer to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and any other domestic birds.

The request for revising the poultry rules was initiated by the industry. They have been free of Mycoplasma synoviae since 1982 and Mycoplasma gallisepticum long before that. The program has been voluntary and all chicken and turkey breeder flocks are participating in it. Since they are doing all the testing and

meeting all the requirements of the National Poultry Improvement Plan (NPIP), a state/federal program, they need an updated rule to deter introduction of diseases into their flocks.

Another reason the poultry rules need to be revised is that over the years there have been changes in the NPIP program. An example is the Sanitation Monitored program. It is available to both chicken and turkey breeders, but is required for Egg-type chicken breeders by federal law. Our rules now do not have the Sanitation Monitored program or any of the required testing in them. Even though, it is not necessary to change the rule every time there is a change in the NPIP program, it is reasonable that the requirements will be easier to understand if they are the same.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES.

a) The following proposed parts are unchanged from one or more of the old rules;

1710.1310, 1710.1320, 1710.1330, 1710.1340, 1710.1370, 1710.1380, 1710.1390, 1710.1400, 1710.1410, 1710.1440, 1710.1450, 1710.1455, 1710.1460, 1710.1470, 1710.1480, 1710.1490, 1710.1510, 1710.1520.

b) The following proposed parts are new or changed;

1710.1300 DEFINITIONS.

Most of the definitions are the same but some are changed because of the inconsistencies noted previously or because of changes in the industry. Also, some new definitions are added. These changes are a necessary and reasonable part of the rule.

1710.1350 REQUIRED PARTICIPATION.

This rule requires participation in certain programs that were voluntary before. These changes were requested by the industry and

are necessary to protect their flocks and are reasonable because the industry is now doing all of the required testing and are free of these diseases. If a flock would become infected with one of these diseases, it would be quarantined and could not be used as a breeder flock.

1710.1360 VOLUNTARY PARTICIPATION.

This rule is necessary to set the testing schedules to control and eradicate other diseases without the industry being penalized for having them. It is reasonable because it helps produce healthier flocks.

1710.1420 TESTING SCHEDULE and

1710.1430 IDENTIFICATION.

This rule is necessary to reflect the changes in the NPIP program and industry and it is reasonable to have the rule the way it is being done.

1710.1435 DIAGNOSTIC SERVICES and

1710.1445 INVESTIGATION.

These are necessary to meet the state requirements of the NPIP programs and are reasonable to be the same as them.

1710.1500 AUTHORIZED TESTING AGENTS.

The only change in this rule is in Subpart 2 and that changes the term of authorization from annually to every three years. Since many of the 300 authorized agents have been testing for 20 or 30 years and none have been revoked, it is necessary and reasonable to reduce both their and the Board's paperwork.

1710.1530 REVOCATION OF PERMIT.

This was added to the rule at the advice of the revisor because it is necessary to have procedures that must be followed to revoke a permit within this rule. It is reasonable to have this in the rule.

c) The following parts were deleted from the old rules and not replaced in the proposed rule;

1710.0750 SEPARATE FACILITIES.

Since the industry would not allow a Mycoplasma gallisepticum positive breeder flock to be used nor would there be a market for the eggs, it is not necessary nor is it reasonable to have this section in the rule.

1710.0940 CERTIFICATES.

Since certificates have not been used for at least ten years, it is no longer necessary or reasonable to have this section in the rule.

1710.1160 REMOVAL OF FLOCKS.

Since section 1710.1380 of the proposed rule states that only birds of the same or comparable classification may be added to a flock, it is no longer necessary or reasonable to have this section in the rule.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULE.

In assessing the economic impact of the proposed changes, the Board is not adding anything that the industry is not doing already. When considering the effect upon small businesses, the rule will have no increased economic costs.

The only new or more stringent compliance standards are those that the industry has asked for and is already meeting.

5-16-91

DATE

T. J. HAGERTY, DVM

EXECUTIVE SECRETARY

BOARD OF ANIMAL HEALTH

Board of Animal Health

Proposed Permanent Rules Relating to Poultry

Rules as Proposed (all new material)

1710.1300 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1710.1300 to 1710.1530.

Subp. 2. **Authorized agent.** "Authorized agent" means a person not employed by the board but designated and authorized by the board to perform functions under parts 1710.1300 to 1710.1530.

Subp. 3. **Baby poultry.** "Baby poultry" means newly hatched poultry that have not been fed or watered.

Subp. 4. **Board.** "Board" means the Minnesota Board of Animal Health.

Subp. 5. **Chickens.** "Chickens" means meat-type and egg-type chickens, but not exhibition, fancy, or game chickens.

Subp. 6. **Control program.** "Control program" means one or more of the state or state and federal cooperative programs for the control or eradication of poultry diseases.

Subp. 7. **Deal; dealing.** "Deal" and "dealing" mean the purchase and resale, for any purpose except immediate slaughter, of any live poultry not owned by the seller since the hatching of those poultry.

Subp. 8. **Dealer.** "Dealer" means a person, firm, association, partnership, or corporation engaged in dealing in poultry.

Subp. 9. **Disease control classification.** "Disease control classification" means the negative status of a flock as pertaining to one or more of the control program diseases.

Subp. 10. **Environmental sample.** "Environmental sample" means a dust, litter, or swab sample taken from a building according to plan procedures.

Subp. 11. **Flock.** "Flock" means poultry maintained and

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segregated for at least 21 days as one group of birds on one premises.

Subp. 12. **Flockowner.** "Flockowner" means a person who owns or is in charge of a flock or flocks of poultry.

Subp. 13. **Hatchery.** "Hatchery" means buildings and equipment on one premises operated or controlled for the purpose of hatching poultry.

Subp. 14. **Hatchery debris.** "Hatchery debris" includes hatcher fluff or egg shells, meconium, or dead germ eggs.

Subp. 15. **Hatching egg dealer.** "Hatching egg dealer" means a person in the business of selling, trading, or exchanging poultry hatching eggs owned by the person or for participating flockowners, independent flockowners, or other hatcheries.

Subp. 16. **Multiplier breeding flock.** "Multiplier breeding flock" means a flock intended for the production of progeny for commercial egg or meat production or for other nonbreeding purposes.

Subp. 17. **Nonparticipant.** "Nonparticipant" means a person who has not signed an agreement with the board or whose agreement has expired or been canceled.

Subp. 18. **Official laboratory.** "Official laboratory" means a laboratory authorized by the board through the cooperative plan to test poultry for program diseases.

Subp. 19. **Other domesticated fowl.** "Other domesticated fowl" means fancy, exhibition, and game chickens, waterfowl, and game birds maintained in captivity, excluding pigeons and doves.

Subp. 20. **Participant.** "Participant" means a person who has signed an agreement with the board that has not expired or been canceled.

Subp. 21. **Plan.** "Plan" means poultry disease control programs of the federal government with which the state cooperates. The board is the official agency for purposes of administering these programs.

Subp. 22. **Positive flock.** "Positive flock" means a flock in which one or more birds are diagnosed with a control program

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disease.

Subp. 23. **Poultry.** "Poultry" means turkeys, chickens, and other domesticated fowl.

Subp. 24. **Primary breeding flock.** "Primary breeding flock" means a flock composed of one or more generations that is maintained for the purpose of establishing, continuing, or improving parent lines.

Subp. 25. **Products.** "Products" means live poultry and hatching eggs.

Subp. 26. **Reactor.** "Reactor" means a bird that has a positive test to a control program disease.

Subp. 27. **Recycled.** "Recycled" means a flock that is molted for the purpose of coming back into production as a breeder flock.

Subp. 28. **Started poultry.** "Started poultry" means young poultry that have been fed and watered.

Subp. 29. **State inspector.** "State inspector" means a person employed by the board to perform functions under the plan and parts 1710.1300 to 1710.1530.

Subp. 30. **Supervision.** "Supervision" means the direct inspection or critical evaluation by a state inspector.

Subp. 31. **Turkeys.** "Turkeys" means domestic, exhibition, and wild turkeys maintained in captivity.

GENERAL PROVISIONS

1710.1310 SALE OF POULTRY AND HATCHING EGGS.

No person may sell, offer for sale, purchase, or trade poultry less than four months of age and their hatching eggs unless they originate from flocks and hatcheries operating under the supervision of the board and parts 1710.1300 to 1710.1530. Birds over four months of age must be tested and be negative for the appropriate required tests before being sold, except those sold for immediate slaughter.

1710.1320 EXEMPTIONS.

Parts 1710.1300 to 1710.1530 do not apply to a person hatching eggs from the person's breeding flocks, if the eggs and

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progeny are maintained on the same premises and are not sold except to slaughter.

1710.1330 PERMITS.

No person may conduct or operate buildings and equipment for the purpose of incubating and hatching eggs or otherwise handling, brooding, selling, or dealing in baby or started poultry, unless a permit is obtained from the board. Requirements for a permit are a completed application, necessary testing, and a satisfactory inspection report. Permits are annual with the renewal date set by the board.

1710.1340 BOARD PARTICIPATION.

The board may participate in federal disease control programs for poultry. Breeder flocks and hatcheries signing up for any of these disease control programs must comply with all applicable provisions for obtaining and maintaining the program disease classifications agreed upon.

1710.1350 REQUIRED PARTICIPATION.

All hatcheries, dealers, and poultry breeder flocks shall participate in the Salmonella pullorum/gallinarum disease control program. In addition, turkey and chicken breeder flocks and hatcheries shall participate in the Mycoplasma gallisepticum (MG) and the Mycoplasma synoviae (MS) programs, except exhibition and wild turkeys are exempt from the MS program, and egg-type chicken breeder flocks and hatcheries must participate in the sanitation monitored program for Salmonella enteritidis. A required participation flock that is positive to any of these diseases must be quarantined and may not be used as a breeder flock for the production of hatching eggs.

1710.1360 VOLUNTARY PARTICIPATION.

Hatcheries and breeder flock owners may volunteer to participate in any other available disease control programs. Use of a breeder flock positive to any of these diseases disqualifies the hatchery and flock from classifications for these diseases.

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1710.1370 HATCHERY PARTICIPATION.

If more than one hatchery is operated under the same ownership or management, all the hatcheries shall attain and maintain the same disease control classifications for all products interchanged. Flocks and hatcheries supplying a hatchery shall attain and maintain the same disease control classifications as the receiving hatchery.

1710.1380 FLOCK PARTICIPATION.

Flocks of poultry to be used for breeding under the board's supervision must be tested at the disease control participation level applied for according to parts 1710.1300 to 1710.1530 and follow all plan provisions. Only birds of the same or comparable classification may be added to a flock. The addition of poultry without the same or comparable classifications causes loss of those classifications.

1710.1390 LOSS OF CLASSIFICATION.

Poultry products produced under a plan agreement lose their classification when consigned to or received by a person without the same classification or by a nonparticipant. A hatchery or flock loses its disease control classification if any of its birds are considered positive in that disease classification.

1710.1400 SUSPENSION OR REVOCATION OF PERMIT.

Failure to comply with parts 1710.1300 to 1710.1530 is grounds to revoke or suspend the permit and the hatchery may lose disease control classifications.

1710.1410 TEST PROCEDURES.

Tests, procedures, and antigens used in the control of poultry diseases must be approved by the board according to plan programs, except the board may approve the use of other comparable tests, procedures, and antigens.

1710.1420 TESTING SCHEDULE.

Subpart 1. **Chicken; egg-type and meat-type.**

Disease	Type of	Initial Test	Monitoring During

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	Flock	16 to 20 weeks of age or start of laying for recycled flocks	Laying Period
Pullorum-Typhoid	Primary	300 blood tests	None
	Multiplier	No test required	None
	Recycled	No test required	None
Mycoplasma gallisepticum	Primary	300 blood samples	150 blood samples every 90 days
	Multiplier Recycled	150 blood samples with a minimum of 50 per barn	75 blood samples with minimum of 30 per pen every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	
Mycoplasma synoviae	Primary	300 blood samples	150 blood samples every 90 days
	Multiplier Recycled	150 blood samples with a minimum of 50 per barn	75 blood samples every 90 days; or 30 cull chicks or 30 egg yolks every 30 days
	Started poultry	75 blood samples with minimum of 50 per barn between 15 to 20 days before moving to laying quarters	

	Age	Type of sample
Sanitation monitored for Salmonella (egg-type only)	0 to 7 days	Originate from sanitation monitored primary breeder or a sample of 30 1st 7-day deads and memeconium.
	16 to 20 weeks	300 blood samples* and 15 environmental samples**
	Laying period	15 environmental samples** per month from each flock
Started poultry	Before hatching	Cleaned and disinfected brooder barns and 15 drag swabs cultured negative
	7 to 10 days	Early mortality sample and 15 environmental samples**
	12 to 18 weeks	15 environmental samples**
Sanitation	4 months of age	15 environmental samples

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monitored for Salmonella (meat-type only)	Laying period	15 environmental samples every 90 days

* culture reactors - maximum of 25

** If Salmonella enteritis is isolated, then 60 birds must be examined bacteriologically for Salmonella.

Subp. 2. **Turkey.**

Disease	Type of Flock	Initial Test 12 to 20 weeks of age or start of laying for recycled flocks	Monitoring during Laying Period
Pullorum-Typhoid	Primary	300 blood samples	None
	Multiplier	No test required	None
	Recycled	No test required	None
Salmonella Typhimurium	Primary Multiplier	100 percent blood test or 500 blood samples** and 500 rectal swabs* per flock with a minimum of 100 of each per barn	30 environmental samples per barn
	Recycled	500 rectal swabs or 30 environmental samples at start of molting period	30 environmental samples per barn
Mycoplasma galli-septicum	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age
Mycoplasma meleagridis	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter
Mycoplasma synoviae	Primary Multiplier Recycled	100 blood samples with a minimum of 30 per barn	60 hen and 30 tom blood samples with a minimum of 30 per barn at 28 to 30 weeks of age and at 4 to 6 week intervals thereafter

	Age	Type of sample
Sanitation monitored for Salmonella spp.	0 to 10 days	Hatchery debris or a sample of 30 lst 10-day deads and 15 environmental samples from cleaned and disinfected building before new candidate breeding flock is placed

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	12 to 20 weeks	30 environmental samples (may use swabs from Salmonella typhimurium testing)
	35 to 50 weeks (midlay)	30 environmental samples once and hatchery debris or a sample of 30 1st 10-day deads on a monthly basis
	End of production	30 environmental samples (before barn cleaned)

* If Salmonella typhimurium is cultured from two or more rectal swabs or birds the flock is considered positive.

** Serological reactors shall be submitted to the state laboratory within ten days for culture.

Subp. 3. **Waterfowl, exhibition, and game birds.**

Disease	Type of Flock	Initial Test	Monitoring
Pullorum-Typhoid (100% test-first year)	Primary	100 birds blood tested per flock	None
	Primary waterfowl and game birds	100 blood tests per flock or an approved monitoring program	
	Waterfowl only		Bacterial exam of hatchery debris from each hatch
	Multiplier	No testing required	
Mycoplasma galli-septicum	Primary	Blood samples from all birds or from 300 per flock	Blood samples every 90 days - 5% of flock with minimum of 100; or every 30 days - 30 cull baby poultry or 30 eggs
	Multiplier	Blood samples from 50% of birds with maximum - 200 per flock minimum - 30 per flock	Blood samples every 90 days - 2% with minimum of 30 per pen; or every 30 days - 30 cull baby poultry or 30 eggs

1710.1430 IDENTIFICATION.

If further testing is required, all poultry must be identified in such a way as to be individually found when the test is completed and all positive birds must be identified with a leg or wing band. Poultry tested for sale or exhibition must

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be identified with a leg or wing band.

1710.1435 DIAGNOSTIC SERVICES.

A person performing poultry diagnostic services shall report to the board, within 48 hours, the source of specimens that are positive to a disease for which there is a control program.

1710.1440 REACTORS.

Birds positive to any of the control program diseases are considered reactors. Reactors may be retested according to board and plan procedures. If retesting is required, reactors must be submitted to the laboratory within ten days.

1710.1445 INVESTIGATION.

The board shall conduct an investigation as to the origin of a disease infection in a flock for which there is a required program.

1710.1450 QUARANTINE.

Flocks positive to required participation disease control tests are quarantined. No products may be used from these flocks and the birds may only be sold to slaughter under permit from the board.

1710.1455 RELEASE OF QUARANTINE.

A quarantine imposed under part 1710.1450 must be released and the flock requalifies for participation in the disease control program:

A. if all cultures of the reactor birds are negative; or

B. for the Pullorum-Typhoid program, if all reactor birds are slaughtered, and there are two consecutive official negative tests, at least 21 days apart on all of the remaining birds.

1710.1460 CLEANING AND DISINFECTING.

After removal of a positive flock, the premises must be carefully cleaned and disinfected under official supervision

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according to plan procedures.

1710.1470 ADDITIONAL TESTING.

The board may conduct or require additional testing or other protective measures if the board considers it necessary.

1710.1480 HATCHERY RESPONSIBILITIES.

Hatchery management shall:

A. identify products as to source;

B. clean and disinfect incubators, hatchers, and trays after each hatch according to plan procedures;

C. fumigate or sanitize hatching eggs according to plan procedures;

D. maintain incubator rooms, brooder rooms, and other hatchery areas in a sanitary condition and isolate the brooder room in a manner satisfactory to the board;

E. use only new or cleaned and disinfected poultry boxes;

F. not hatch or custom hatch eggs unless they originate from sources with the same or comparable disease control classifications as the hatchery;

G. permit inspection of buildings, equipment, and records at any reasonable time by agents of the board; and

H. maintain adequate records to show origin of all hatching eggs and destination of baby poultry for the current year and the previous year.

1710.1490 FLOCKOWNER RESPONSIBILITIES.

A flockowner shall:

A. maintain poultry buildings and premises in a sanitary condition;

B. fumigate or sanitize the hatching eggs as soon after laying as possible;

C. maintain identity of hatching eggs;

D. use only new or cleaned and fumigated egg cases;

E. isolate for at least 30 days and test any poultry returning to or being added to the flock;

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F. permit inspection of flocks, buildings, and premises at any reasonable time by agents of the board;

G. establish a good biosecurity program; and

H. not raise other poultry on the premises unless they are well segregated or of the same classifications.

1710.1500 AUTHORIZED TESTING AGENTS.

Subpart 1. **Program training course.** A person who wants to become an authorized testing agent shall attend and complete a program training course and perform satisfactory work at a field school. Temporary authorizations may be issued by the board. A veterinarian is not required to attend a program training course.

Subp. 2. **Term of authorization.** Authorization is valid for three years unless revoked or suspended by the board for failure to comply with parts 1710.1300 to 1710.1530 or for performing unsatisfactory work.

Subp. 3. **Fees.** Any authorized testing agent fees must be paid by the flockowner or hatchery.

Subp. 4. **Limitation.** Only testing agents with current authorization may collect samples or conduct Pullorum-Typhoid tests.

Subp. 5. **Records.** All tests must be recorded on an official test chart furnished by the board and the original must be submitted to the board within ten days following completion of the test.

1710.1510 DEALER RESPONSIBILITIES.

A poultry dealer shall:

A. maintain holding areas in a clean and sanitary condition;

B. not keep, maintain, or sell sick poultry and properly dispose of all sick or dead poultry;

C. report to the board any poultry showing signs or diagnosed as having a control program disease;

D. permit inspection of buildings, equipment, vehicles, and records at any reasonable time by agents of the board;

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E. use only new or cleaned and disinfected poultry boxes; and

F. maintain adequate records to show the origin and distribution of all poultry for two years. Records must contain the number, breed, sex, and age of the poultry in each transaction.

1710.1520 ADVERTISING.

A person may not advertise poultry or a hatchery for any disease control classification which the poultry or hatchery does not have.

1710.1530 REVOCATION OF PERMIT.

The board may refuse to issue or may revoke a permit or authorization for failure to comply with parts 1710.1300 to 1710.1530. Upon receipt of a written notice of the violations from the board, the recipient has ten days to comply with parts 1710.1300 to 1710.1530. Failure to comply within this time is grounds for refusing to issue or to revoke the permit as well as to charge the violator with misdemeanor charges as applied to Minnesota Statutes, chapter 35. The board shall give written notice of the refusal to issue or the revocation by personal delivery or certified mail. The violator may, within 30 days, file a notice of appeal with the board for a hearing by the board.

REPEALER. Minnesota Rules, parts 1710.0010; 1710.0020; 1710.0030; 1710.0040; 1710.0050; 1710.0060; 1710.0070; 1710.0080; 1710.0090; 1710.0100; 1710.0110; 1710.0120; 1710.0130; 1710.0140; 1710.0150; 1710.0160; 1710.0170; 1710.0180; 1710.0190; 1710.0200; 1710.0210; 1710.0220; 1710.0230; 1710.0240; 1710.0250; 1710.0260; 1710.0270; 1710.0280; 1710.0290; 1710.0300; 1710.0310; 1710.0320; 1710.0330; 1710.0340; 1710.0550; 1710.0560; 1710.0570; 1710.0580; 1710.0590; 1710.0600; 1710.0610; 1710.0620; 1710.0630; 1710.0640; 1710.0650; 1710.0660; 1710.0670; 1710.0680; 1710.0690; 1710.0700; 1710.0710; 1710.0720;

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1710.0730; 1710.0740; 1710.0750; 1710.0760; 1710.0770;
1710.0780; 1710.0790; 1710.0800; 1710.0810; 1710.0820;
1710.0830; 1710.0840; 1710.0850; 1710.0860; 1710.0870;
1710.0880; 1710.0890; 1710.0900; 1710.0910; 1710.0920;
1710.0930; 1710.0940; 1710.0950; 1710.0960; 1710.0970;
1710.0980; 1710.0990; 1710.1000; 1710.1010; 1710.1020;
1710.1030; 1710.1040; 1710.1050; 1710.1060; 1710.1070;
1710.1080; 1710.1090; 1710.1100; 1710.1110; 1710.1120;
1710.1130; 1710.1140; 1710.1150; 1710.1160; 1710.1170;
1710.1180; 1710.1190; 1710.1200; 1710.1210; 1710.1220;
1710.1230; 1710.1240; 1710.1250; 1710.1260; 1710.1270;
1710.1280; and 1710.1290, are repealed.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Poultry

AGENCY: Board of Animal Health

MINNESOTA RULES: Chapter 1710

The attached rules are approved for
publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

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 Diseases of Poultry.	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 May 20, 1991 and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on May 16, 1991. (3) 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.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking. (5) The agency received one request for a public hearing. Therefore, the agency did not receive requests for a public hearing from twenty-five or more persons which were not withdrawn.

(7) No requests for notice of submission to the attorney general were received by the department.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing Diseases of Poultry is adopted this third day of July, 1991, pursuant to authority vested in me by Minnesota Statutes, section 35.03. (9)

T. J. Hagerty, DVM
Executive Secretary

Re Submitted 11-20-91

Submitted the following:

SOLAR
Joint Notice of Withdrawal from AG
Consideration and Notice of Intent
To Adopt a Rule Without
a Public Hearing.
Notice in State Register
Affadavit of Mailing
Findings of Fact, Conclusions
Notice of Withdrawal

did not submit 4 copies of the
since the rules haven't been
changed can't we use the
ones previously submitted?
Charlene your memo indicated they
should submit 4 copies & don't
think it's necessary but
if you want me to call him
let me know. Otherwise I think
everything is O.K. and they
should be accepted.

SOLAR -

1710.1380 - doesn't match up with the rule - SOLAR talks about waterfowl - rule talks about comparable classification - ~~the SOLAR etc etc~~

1710.1420 - did not justify it much refred to NPIP program. My understanding

~~1210.1435 no justification for 1710.1435~~ I think overall this is a big improvement over the last SOLAR and it should be ~~acc~~ accepted.

notice of Intent

STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES OF THE BOARD OF ANIMAL HEALTH, GOVERNING DISEASES OF POULTRY, (MINNESOTA RULES PARTS 1710.0010 THROUGH 1710.1290)	)))))	STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION.

Minnesota Statutes, Sections 29.051 and 35.03 authorize and require 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 including poultry. The subject of this rule amendment is the proposed adoption of the rule governing the control of diseases of poultry. The Board has determined that the proposed rule is noncontroversial because it was requested by and is supported by members of the poultry industry and properly protects poultry health. Because of the noncontroversial nature of this rule, the Board is proceeding according to Minnesota Statutes, Sections 14.21 to 14.28, and this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW.

The existing rules of the Board, which will be affected by the amendments address four different subject areas:

CONTROL AND ERADICATION OF PULLORUM-TYPHOID DISEASE IN POULTRY AND OTHER DOMESTICATED FOWL (1710.0010 - 1710.0340);

CONTROL OF MYCOPLASMA IN POULTRY (1710.0550 - 1710.0880);

CONTROL OF SALMONELLA TYPHI-MURIUM DISEASE IN TURKEYS (1710.0890 - 1710.1200); and

DEALING IN POULTRY BY DEALERS (1710.1210 - 1710.1290).

The rules dealing separately with these four subject areas are being repealed and the subject matter is being combined into one new rule. The reasons for this consolidation, amendment and repeal are:

First, all four of the rules cited above need to be updated. The Dealer rule has not been changed since 1948, the Pullorum-Typhoid rule for sixteen years and the other two areas for eight years. During this time the poultry industry has made many technological advances and parts of the rules are therefore outdated.

Second, the existing rules are overly repetitive and redundant.

Third, the rules provide several different meanings for identical terms with no valid reasons for differing treatment. For example, **"POULTRY"** is defined in 3 of the existing rules, each time differently;

1. "Poultry" shall mean turkeys and chickens.
   1710.0010, Subp. 11

2. "Poultry" shall mean turkeys, chickens, and other poultry.
   1710.0550, Subp. 9

3. "Poultry" shall mean and refer to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and any other domestic birds.
   1710.1210, Subp. 5

The new definitions will apply equally to all amended programs.

The request for revising the poultry rules was initiated by the industry. Minnesota breeder flocks have been free of Mycoplasma synoviae since 1982 and Mycoplasma gallisepticum long before that. The control programs for these diseases have been voluntary and all Minnesota chicken and turkey breeder flocks are participating in them. Since they are doing all the testing and meeting all the requirements of the USDA National Poultry Improvement Plan (NPIP), a state/federal program, they need an updated rule to formalize these requirements and to deter introduction of diseases into Minnesota poultry flocks.

Another reason the poultry rules need to be revised is that over the years there have been changes in the NPIP program. An example is the Sanitation Monitored program. It is currently available to both chicken and turkey breeders, but is required for Egg-type chicken breeders by federal law. Our existing rules do not address the Sanitation Monitored program or any of the program's required testing. The disease testing and control requirements for poultry producers will be easier to understand and meet if they are the same in the state rules and in the federal programs.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES.

1710.1300 DEFINITIONS.

Most of the definitions are the same but some are changed because of the inconsistencies noted previously or because of changes in the industry. Also, some new definitions are added. These changes are a necessary and reasonable part of the rule to ensure that the rule is clear and consistently applied.

1710.1310 SALE OF POULTRY AND HATCHING EGGS.
(derived from 1710.0020, the last part of 1710.0050, 1710.0170 and 1710.0580).

Since birds under four months of age cannot be tested for Salmonella Pullorum-Typhoid, according to the National Poultry Improvement Plan, it is necessary to forbid their sale unless they originate from tested and permitted breeding stock. Birds that are over four months of age must be tested prior to sale as breeding stock. When they reach four months of age, the testing available provides a more concrete assurance of their disease-free status. This combination of requirements ensures that diseased birds will not be sold and prevents spread of potentially diseased birds. The industry has been complying with these requirements for over twenty years and they have effectively protected the health of poultry breeding stock.

1710.1320 EXEMPTIONS.
(derived from the first part of 1710.0050).

If a person is hatching poultry for his or her own use and those birds are not sold except to slaughter, it is not necessary to test or regulate them nor is it reasonable to do so since there is no risk of disease transmission to other flocks.

1710.1330 PERMITS.
(derived from 1710.0060, 1710.0580, and 1710.1220).

The sale and trade of poultry are required to be under the supervision of the Board by Minnesota Statutes, Sections 29.051 and 35.03. It is, therefore, necessary and reasonable to require a permit for poultry sale and to establish criteria for that permit in the rule in order to effectively monitor the industry and to provide both effective disease control and the means to enforce poultry health requirements.

1710.1340 BOARD PARTICIPATION.
(derived from 1710.0320).

The federal NPIP Program is set up to be conducted in cooperation with the official state agency (Board of Animal Health). The industry needs to comply with the NPIP Program in order to sell its products interstate. It is, therefore, necessary and reasonable that the Board be authorized to participate in the NPIP Programs.

It is also necessary and reasonable, to ensure that the programs are meaningful, that breeder flocks and hatcheries participating in the state/federal disease control programs agree to abide by the provisions of these programs.

1710.1350 REQUIRED PARTICIPATION.

This rule requires participation in certain programs that were voluntary before. This was requested by the industry and is necessary to protect their flocks. It is reasonable because the industry is now doing all of the required testing and all Minnesota Breeding flocks are free of these diseases. If a flock would become infected with one of these diseases, it would be quarantined and could not be used as a breeder flock.

1710.1360 VOLUNTARY PARTICIPATION.

By having voluntary disease control programs, it allows us to set testing schedules which the industry may participate in. This is necessary to control and eradicate diseases other than required participation diseases. The flocks would not be quarantined if they become infected. It is reasonable because it helps produce healthier flocks through voluntary participation.

1710.1370 HATCHERY PARTICIPATION.
(derived from 1710.0080, 1710.0570 and 1710.0930).

If a person owns more than one hatchery or breeding flock, it is necessary and reasonable for disease control purposes that all products moved between them be of the same disease control classifications. To allow different disease classifications on such flocks would be meaningless, since transfer of birds between flocks creates equal disease risk in those flocks.

1710.1380 FLOCK PARTICIPATION.
(derived from 1710.0090, 1710.0720 and 1710.1110)

The provision in 1710.0090 to exclude waterfowl from being tested (by reference to part 1710.0030) was removed. They were originally exempted due to the low risk of disease transmission and the high cost of testing. Since the NPIP now allows the testing of waterfowl via hatchery debris instead of blood testing, the burden of required testing has lowered to the point where testing benefits exceed the minimal cost. Therefore, it is not reasonable nor necessary to have this exclusion.

1710.1390 LOSS OF CLASSIFICATION.
(derived from 1710.0330, 1710.0800 and 1710.1200).

If a hatchery or flock sells products to an unclassified buyer, it is necessary and reasonable for disease control that the birds sold cannot keep their classifications because there is no assurance that they will not be infected in their new facility. Further, if a disease is found in a hatchery or flock, that flock cannot by definition be classified as free of that disease.

1710.1400 SUSPENSION OR REVOCATION OF PERMIT.
(derived from 1710.0070, 1710.0950 and 1710.1230).

If a person does not comply with the program provisions that the person has agreed to follow, it is necessary and reasonable to revoke or suspend the permit and to remove the disease control classifications from that operation.

1710.1410 TEST PROCEDURES.
(derived from 1710.0160, 1710.0200, 1710.0650 and 1710.1010).

Since the NPIP requires that the tests, procedures, and antigens used in the control programs be approved by the official state agency, it is necessary and reasonable to have these approval procedures in the rule. Also, in addition to federally prescribed tests, NPIP permits the official state agency to approve use of other unspecified comparable tests, procedures and antigens of equal or greater reliability. Thus, it is necessary and reasonable to give the Board the flexibility of determining adequate methods to aid the industry in developing new procedures while protecting poultry health.

1710.1420 TESTING SCHEDULE.

This rule reflects the testing being conducted by the poultry industry, much of it on a voluntary basis, to be in compliance with the NPIP programs. The variety of types of diseases, types of poultry, ages of poultry, and available test procedures require a lengthy chart to address the various permutations of circumstances to be addressed. The requirements in this part reflect those set forth in the NPIP programs and are necessary to reflect the current NPIP program. NPIP has shown that this test schedule is reasonable to eradicate diseases and to better protect poultry health and the consuming public.

1710.1430 IDENTIFICATION.

The old rules (1710.0220 and 1710.1030) stated that all birds tested must be identified. Many of the tests are conducted on a sample basis of all birds in the flock and if a sample is positive the entire flock is deemed positive. Thus, the identification of every bird being tested is no longer necessary. The new rule still states that if further testing is required to determine the flock's status, the individual birds tested must be identified. This rule covers what is necessary to diagnose disease and places a more reasonable burden on producers than the old rules.

1710.1440 REACTORS.
(derived from 1710.0240, 1710.0700, 1710.0860 and 1710.1060).

Since the presence of potentially diseased birds (reactors) in a flock causes the loss of classifications for the flock or hatchery, it is necessary and reasonable that more specific tests be performed on the reactors to make sure they are in fact diseased

before the producer faces negative financial consequences from declassification. It is also necessary and reasonable that NPIP procedures be followed for the retesting and they provide for equal treatment of producers throughout the country. The retesting within ten days is one of the NPIP procedures and provides for rapid verification to control disease if disease is present or to mitigate negative consequences to producers if retesting shows that disease is not present.

1710.1435 DIAGNOSTIC SERVICES and
1710.1445 INVESTIGATION.

These rules are required by NPIP. If a state does not have this authority, no flocks in the state can participate in any of the NPIP programs. The requirement for notification to the Board within forty-eight hours of the diagnosis of potential disease allows a prompt response by the Board to control potential disease outbreaks and trace a disease to its source. The identification of birds as reactors and the prompt performance (within ten days) of mandated retests provide the Board with tools for disease control programs. Therefore, it is necessary and reasonable to have these rules.

1710.1450 QUARANTINE.
(derived from 1710.0240 and 1710.0870).

Minnesota, through existing voluntary programs, is already free of the proposed required participation control program diseases. The industry has requested that they become required programs. It is necessary and reasonable to quarantine flocks which test positive for those diseases where participation is mandated and to forbid sale of their products in order to maintain the health of Minnesota poultry and prevent the spread of disease.

1710.1455 RELEASE OF QUARANTINE.
(derived from 1710.0240 (last part) and 1710.0250 (first part).

The rule and NPIP procedures allow removal of birds that test positive and later retesting for requalification of flocks if followup tests prove negative. This method has been used effectively for the past sixty years to clean up flocks and to prevent disease dissemination. The required twenty-one day wait between tests is scientifically determined to allow detection of disease that might develop into detectable form after the initial test. It is, therefore, necessary and reasonable to keep this provision.

1710.1460 CLEANING AND DISINFECTING.
(derived from 1710.0250 (last part), 1710.0260 (last part) and 1710.1080).

Cleaning and disinfecting of premises where an infection has been found are recognized and necessary disease control procedures.

It is necessary and reasonable to require, by rule, the clean up and disinfection of infected premises to prevent reinfection of birds brought into potentially contaminated facilities and to prevent disease transmission to other flocks or facilities.

1710.1470 ADDITIONAL TESTING.
(derived from 1710.0270).

Since poultry themselves, and disease conditions of poultry are biological and thus variable, some discretion must be used in assessing the adequacy of disease control measures. It is, therefore, necessary and reasonable that the Board be given the authority to employ additional unspecified testing and protective measures when those measures are determined to be necessary to adequately control poultry diseases, prevent disease spread, or meet evolving federal or industry requirements and growing scientific knowledge.

1710.1480 HATCHERY RESPONSIBILITIES.
(derived from 1710.0290, 1710.0770 and 1710.1170).

Hatcheries bear major responsibilities in prevention of poultry diseases. The hatcheries have been abiding by the existing rules for more than twenty years and these rules have proved effective. The control measures set forth prevent disease introduction and disease spread and they also allow tracing of diseases that may be discovered. It is, therefore, necessary and reasonable to keep the requirements in the new rules in a reworded but functionally identical form to meet the minimum standards necessary.

1710.1490 FLOCKOWNER RESPONSIBILITIES.
(derived from 1710.0300, 1710.0780 and 1710.1180).

The flockowner's responsibilities for disease control have been described and followed in the old rules for more than twenty years to good effect. It is, therefore, necessary and reasonable to keep these requirements in the new rules even though they are in a reworded but functionally identical form. Existing rules require isolation of new purchases or returning poultry in order to prevent disease introduction into a clean flock. This part allows release of these birds into the flock after thirty days. This is adequate time to detect disease in birds being added to the flock and to prevent contamination of the flock by these new birds and meets the minimum standards for disease control.

1710.1500 AUTHORIZED TESTING AGENTS.
(derived from 1710.0120, 1710.0130, 1710.0140, 1710.0150, 1710.0960, 1710.0970 and 1710.0980).

Authorized testing agents are allowed and recommended by the NPIP. Since they are doing official testing and collecting of samples, it is necessary and reasonable to have rules for them to adhere to. The only change in this rule is in Subpart 2 and that

changes the term of authorization from annually to every three years. Since many of the 300 authorized agents have been testing for 20 or 30 years and none have been revoked, it is necessary and reasonable to reduce both their and the Board's paperwork.

1710.1510 DEALER RESPONSIBILITIES.
(derived from 1710.1230, 1710.1250, 1710.1270, 1710.1280 and 1710.1290).

The dealer responsibilities, like those of hatcheries and flockowners, are all set forth in the old rules and the dealers have been abiding by them since 1948 to good effect. The requirements provide the means to control the spread of disease and records and reports to trace diseases that are found. It is, therefore, necessary and reasonable to keep them in the new rules in a reworded but functionally identical form. One change is made. The existing rules require records to be kept but do not allow them to be discarded. This part allows the dealers to dispose of the records after two years, thus saving storage space. The two years of records are adequate for the Board to trace potential disease carriers and to find poultry dealer violations.

1710.1520 ADVERTISING.
(derived from 1710.0310, 1710.0790 and 1710.1190).

It would be untruthful to advertise poultry having a disease control classification that they do not have. Misrepresentation of one's flock classifications could be detrimental to the rest of the poultry industry by allowing fraudulent sale of possibly diseased birds to clean flocks. It is, therefore, necessary and reasonable to have this rule to prohibit false disease related advertising.

1710.1530 REVOCATION OF PERMIT.
(derived from 1710.0950, 1710.0070 and 1710.1230).

The Board has the authority to revoke or to refuse to issue a permit for violation of its rules under Minnesota Statutes 35.93. This rule first allows the permittee ten days to come into compliance with the rules. This time is allowed in conformity with the broad Board goals of seeking voluntary compliance before taking punitive measures. However, if voluntary compliance is not forthcoming within ten days, the Board will act more harshly, administratively or criminally. The thirty days allowed for appeal of Board action against the permittee is consistent with the Administrative Procedure Act. Both time periods strike a balance to ensure the health of the poultry and to protect the interests of the regulated party.

IV. REPEALER.

Most of the parts of the previously mentioned rules are incorporated into the new parts. The following three parts are no longer necessary in the rules for the reasons listed.

1710.0750 SEPARATE FACILITIES.

Since the industry would not allow a Mycoplasma gallisepticum positive breeder flock to be used nor would there be a market for the eggs, it is not necessary nor is it reasonable to have this section in the rule.

1710.0940 CERTIFICATES.

Since certificates have not been used for at least ten years, it is no longer necessary or reasonable to have this section in the rule.

1710.1160 REMOVAL OF FLOCKS.

Since section 1710.1380 of the proposed rule states that only birds of the same or comparable classification may be added to a flock, it is no longer necessary or reasonable to have this section in the rule.

V. SMALL BUSINESS IMPACT OF THE PROPOSED RULE.

In assessing the economic impact of the proposed changes, the Board is not adding anything that the industry is not doing already. When considering the effect upon small businesses, the rule will have no increased economic costs.

The only new or more stringent compliance standards are those that the industry has asked for and is already meeting.

10-10-91
DATE

T. J. HAGERTY, DVM
EXECUTIVE SECRETARY
BOARD OF ANIMAL HEALTH

Board of Animal Health

In the Matter of the Proposed Rule of the State Board of Animal Health Governing Diseases of Poultry

JOINT NOTICE OF WITHDRAWAL FROM ATTORNEY GENERAL CONSIDERATION AND NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.

(1) Notice is hereby given that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22-14.28. The statutory authority to adopt this rule is Minnesota Statutes, section 35.03.

These rules were originally published May 20, 1991, State Register, Volume 15, Number 47. (2) The comment period is reopened and all persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (5) Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. (6) If a public hearing is required, the board will proceed according to Minnesota Statutes, sections 14.131-14.20.

(6) Comments or written requests for a public hearing must be submitted to: Keith A. J. Friendshuh, DVM, Minnesota Board of Animal Health, Room 119, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-3428.

(8) The proposed rule may be modified if the modifications are supported by the data and views submitted to the board and do not result in a substantial change in the proposed rule as noticed.

(11) The proposed rules as published on May 20, 1991, State Register, Volume 15, Number 47, have not changed. (12) The only changes are in the Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule. It has been revised and is available upon request from Dr. Friendshuh.

(14) The board has determined that this rule will have no significant negative impact on small businesses.

(9) If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Dr. Friendshuh.

STATE OF MINNESOTA

October 4, 1991
Date

T. J. Hagerty, DVM
Executive Secretary

Human Services Department
9505.0175; .0324 (emergency proposed) 988
9505.0476; .0477; .0478; .0479; .0480; .0481; .0482; .0483; .0484; .0485; .0487; .0489; .0490; .0491 (emergency proposed) 973
9505.2165 (adopted) 960
9510.2000; .2010; .2020; .2030; .2040; .2050; .2060; .2070 (emergency proposed) 1035
9520.0900; .0902; .0904; .0906; .0908; 0910; .0912; .0914; .0916; .0918; .0922; .0924; .0926 (emergency proposed) 961
9535.1700; .1705; .1710; .1715; .1720; .1725; .1730; .1735; .1740; .1745; .1750; .1755; .1760; .1765 (emergency proposed) 983

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

Withdrawal and Re-Proposal of Permanent Rules Relating to Poultry

Joint Notice of Withdrawal from Attorney General Consideration and Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Animal Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, section 35.03.

These rules were originally published May 20, 1991, *State Register*, Volume 15, Number 47. The comment period is reopened and all persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

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.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the board will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to:

Keith A. J. Friendshuh, DVM
Minnesota Board of Animal Health
Room 119
90 West Plato Boulevard
St. Paul, MN 55107
(612) 296-3428

The proposed rule may be modified if the modifications are supported by the data and views submitted to the board and do not result in a substantial change in the proposed rule as noticed.

The proposed rules as published on May 20, 1991, *State Register*, Volume 15, Number 47, have not changed. The only changes are in the **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule. It has been revised and is available upon request from Dr. Friendshuh.

The board has determined that this rule will have no significant negative impact on small businesses.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Dr. Friendshuh.

Dated: 4 October 1991

T. J. Hagerty, DVM
Executive Secretary

Department of Health

Proposed Permanent Rules Relating to Eligible Analytes under the Clean Water and Safe Drinking Water Program

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") intends to adopt without a public hearing the above-entitled amendment to rules by expanding the list of analytes eligible for certification under the Clean Water Program and the Safe Drinking Water Program. To accomplish this purpose the Department intends to amend *Minnesota Rules* part 4740.2020, by adding a new subpart 5, without a public hearing following the procedures set forth in the Administrative Procedure Act in *Minnesota Statute* §§ 14.22 to 14.28 (1990). The statutory authority to adopt the rules is *Minnesota Statute* §§ 144.97 and 144.98 (1990).

All persons have until Thursday, November 21, 1991, 4:30 p.m. to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period, ending November 21, 1991. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes*, Sections 14.131 to 14.20 (1990).

Comments or written requests for a public hearing must be submitted to:

Pauline M. Bouchard, J.D., Director
Public Health Laboratory Division
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, Minnesota 55440
Telephone: (612) 623-5210

In the Matter of the Proposed Adoption of the Rule of the State Board of Animal Health Governing Diseases of Poultry

AFFIDAVIT OF MAILING THE JOINT NOTICE OF WITHDRAWAL FROM ATTORNEY GENERAL CONSIDERATION AND NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eugene Kirchoff, being sworn, says:

That on the seventeenth day of October, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Joint Notice of Withdrawal from Attorney General Consideration and 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 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 Minnesota Board of Animal Health rulemaking mailing list.

Eugene Kirchoff

Subscribed and sworn to before me
this 17 day of October, 1991.

Notary Public

In the Matter of the Proposed
Rule of the State Board of
Animal Health Governing Diseases
of Poultry.

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

KEITH FRIENDSHUH, 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 Minnesota Board of Animal Health rulemaking mailing list is accurate, complete and current as of this seventeenth day of October, 1991.

Keith Friendshuh, DVM
Veterinarian In Charge
Poultry Diseases

Subscribed and sworn to before
me this 17th day of October, 1991.

Notary Public

OFFICIAL (BOARD OF ANIMAL HEALTH) HEARING LIST

4-5-90

- To Recieve all Hearing Notices

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Marshall, MN 56258

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~~112 Tenth Ave. So.~~
~~South St. Paul, MN~~ 55075
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ST Paul MN 55113

David Luhman
RR 3
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MN Guernsey Breeders Assoc.
~~Mrs. Walter Fuchs, Secretary~~
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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
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Dairy & Livestock Division
MN Dept. of Agriculture
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St. Paul, MN 55107

Judith G. Schotzko
Frundt, Frundt, & Johnson
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Blue Earth, MN 56013

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

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Mr John Hallstrom
Rt 3 Box 90
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Jerry Lord
Box 198
Lake Park, MN 56554

Dr. Jack Flint
898 County Road I W.
~~Shorview~~, MN 51526
Shoreview

~~Dr. Paul Anderson~~
~~5635 143rd St. W.~~
~~Apple Valley, MN 55124~~

BOARD OF ANIMAL HEALTH

NOTICE OF INTENT AND COPY OF AMENDED POULTRY DISEASES RULES SENT TO THE FOLLOWING:

MAILED 5/16/91

John Hausladen — Minnesota Turkey Grower's Assoc.
678 Transfer Rd.
St. Paul, MN 55114

Greg Reigstad — Minnesota Poultry Industries Assoc.
P.O. Box 185
St. Cloud, MN 56302

Roger Boros — Minnesota Pheasant & Waterfowl Soc.
8189 St. Croix Tr. So.
Hastings, MN 55033

Judy Goodwater — Minnesota Game Breeders Club
RR 2 Box 210
Austin, MN 55912

Adrian J. Rademacher — Minnesota State Poultry Assoc.
9185 Co. Rd. 10 E
Waconia, MN 55387

Dr. Ben Pomeroy — University of MN
1443 Raymond Ave. (res.)
St. Paul, MN 55108

Dr. David Halvorson, Assoc. Prof. Univ. of MN
Dept. of Vet. Path./Avian Health
1971 Commonwealth Ave.
St. Paul, MN 55108

Dr. John Newman — University of MN
Dept. of Vet. Path./Avian Health
1971 Commonwealth Ave.
St. Paul, MN 55108

Dr. M. C. Kumar — E. B. Olson Farms
Atwater Laboratory
P.O. Box 439
503 Pleasant Ave. E.
Atwater, MN 56209

Mr. Ted Huisinga — (Board Member and Willmar Pltry. Co.)
RR 4
Willmar, MN 56201

Mr. Kenneth Money
209 Grove St. NE Box B
Silver Lake, MN 55381

American Selected Products, Inc.

Mr. Orval Gartner
P.O. Box 10
Mapleton, MN 56065

Gartner Poultry Farm

Mr. Mark Johnson
Box 1106
St. Cloud, MN 56302

Jack Frost Hatchery

Mr. ~~Dennis Alberts~~ Tony Wasmund
PO Box 247
190 3rd St. So.
Dassel, MN 55325

Midwest Htcy. & Poultry Farms, Inc.

Mr. Doug Tidyman
PO Box 200
Jackson, MN 56143

Cuddy Farms, Inc.

Mr. Jeffrey Trites
375 Frederick Lane
Henning, MN 56551

Henning Hatchery, Inc.

Dr. Dave Mills
1005 E. Division Ave.
Barron, WI 54812

Jerome Turkey Hatchery

Mr. Helmut Miehlisch
Box 113
Rt. 2
Lanesboro, MN 55949

Independent Flockowner

Mr. Dick Peterson
Rt. 1 Box 3
Cannon Falls, MN 55009

Peterson Turkey Hatchery

Mr. Mitch Roe
P.O. Box 185
Altura, MN 55910

Simmons Poultry Farms

Mr. Kenneth Bartley
P.O. Box 706
Detroit Lakes, MN 56501

Swift - Eckrich Co.

Mr. Fred Huebsch
Box 220 Rt. 3
Perham, MN 56573

Turkey Eggs MN

Mr. Marvin Mickelson
Rt. 3 Box 39
Frazee, MN 56544

Turkey Eggs MN

Mr. Larry Gates
Box 753
369 Co. Rd. 5 SW
Willmar, MN 56201

Willmar Poultry Co.

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 DISEASES OF POULTRY.

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 May 20, 1991 and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on May 16, 1991. The new Joint Notice of Withdrawal from Attorney General's Consideration and Notice of Intent to Adopt the above entitled rule was published in the State Register on October 21, 1991 and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on October 17, 1991.

The proposed rule was withdrawn from Attorney General consideration so that a more complete Statement of Need and Reasonableness could be developed. There were no changes to the rule. (2) The new 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 upon request.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after each notice of proposed rulemaking. (3) After the publishing of the Intent on October 21, 1991, no comments or requests of any kind were received. (7) Therefore, the agency did not receive requests for a public hearing from twenty-five or more persons which were not withdrawn. No requests for notice of submission to the attorney general were received by the department.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing Diseases of Poultry is adopted this twenty-first day of November, 1991, pursuant to authority vested in me by Minnesota Statutes, section 35.03. (9)

T. J. Hagerty, DVM
Executive Secretary

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

In the Matter of the Proposed
Adoption of the Rule Amendments
Relating to Diseases of Poultry

NOTICE OF WITHDRAWAL
FROM CONSIDERATION BY
ATTORNEY GENERAL

Please take notice that the Board of Animal Health hereby withdraws the above-captioned rule for consideration by the Attorney General on July 22, 1991. The rule will be resubmitted to the Attorney General's Office after correction and resolution of the legal concerns.

WALTER MACKEY, DVM, MPH
Acting Executive Secretary

Dated: July 22, 1991