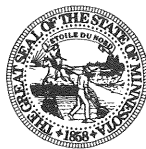


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STATE OF MINNESOTA

BOARD OF ANIMAL HEALTH

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July 8, 1993

Michele Swanson
Legislative Commission to Review Administrative Rules (LCRAR)
55 State Office Building

Interoffice Mail

Dear Ms. Swanson,

Please find enclosed the statement of need and reasonableness for the proposed changes in Board of Animal Health Rules pertaining to Pseudorabies Control.

Sincerely,


John C. Landman, DVM
Pseudorabies Division

STATE OF MINNESOTA
BOARD OF ANIMAL HEALTH

**IN THE MATTER OF THE PROPOSED
AMENDMENTS TO THE RULES OF THE
BOARD OF ANIMAL HEALTH, GOVERNING
PSEUDORABIES CONTROL (MN RULES PARTS
1705.2400 THROUGH 1705.2530)**

**STATEMENT OF NEED
AND REASONABLENESS**

I. INTRODUCTION

Minnesota Statutes, Section 35.03, requires the Minnesota Board of Animal Health ("Board") to adopt rules necessary to protect the health of Minnesota's domestic animals. Minnesota Rules, Chapter 1705, specifically address measures necessary to control pseudorabies, a serious disease of swine and other livestock. Over time, these rules have been amended in response to technological advances in disease control as well as in response to changes in the pork-producing industry. In addition, previous amendments to these rules have reflected Minnesota's participation in a federal program targeting pseudorabies for eventual eradication. The current proposed changes are the result of similar stimuli.

The Board has determined that the proposed rule is non-controversial and that the amendments are in the best interest of the livestock industry of the state. Further, the Board has determined that the proposed rule is not detrimental to the public health, safety, or general welfare. The proposed changes are supported by the pork-producing industry and others affected by the rule, and were, in fact, developed in response to needs expressed by the industry.

Because of the non-controversial nature of this rule, the Board is proceeding under Minnesota Statutes, Sections 14.22-14.28.

This statement of need and reasonableness was completed prior to the date that the proposed rule was published in the State Register.

II. GENERAL OVERVIEW

The Board's aim in proposing these rule changes is to make the pseudorabies rule more "user friendly". The proposed amendments to Chapter 1705 each address one or more of the following:

(1) The present rules provide no guidance for pork producers who wish to manage their operations using the "all-in/all-out" method.

(2) The present rules place an excessive burden on producers who are willing to segregate the offspring from a quarantined herd.

(3) The present rules place an excessive burden on swine growing operations which maintain no breeding animals on the premises.

(4) The present rules lack definitions for several specific terms used in the rules.

(5) The present rules use the term "representative sample" without a definition and with different meanings in different parts of the rules. The term used also conflicts with accepted statistical terminology.

(6) The series of amendments made over time have resulted in an overall disorganization of the chapter in question. Vital information on particular topics is scattered among several parts, making that information very difficult to find. In addition, there is now considerable redundancy and there are a few instances of contradictory or conflicting information.

(7) The present rules contain a number of dated references. As these dates have now all passed, these references serve only to add paragraphs of obsolete text to the chapter in question.

(8) Certain minor grammatical or reference problems were identified in the present rules during the process of addressing items 1 through 7 above.

In general, the proposed amendments to Chapter 1705 are largely of a housekeeping nature only. In the few cases where proposed changes are substantive in nature, all of these proposed changes serve to reduce the burden on the pork industry without jeopardizing the public welfare. The proposed rule in its revised form will prove to be better organized, easier to understand, and will have a positive effect on the industry.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES

1705.2400 DEFINITIONS.

Subparts 1a, 1b, 3d

These are new definitions. They are added to reflect swine management techniques not presently addressed in the rules. The changes are needed in order to permit the Board to reduce the regulatory burden placed upon swine herds which fall into these three categories, by means of proposed changes in other parts of this chapter. The changes are reasonable because they reflect sound management principles and techniques presently in use within the industry.

Subpart 5c

This is a new definition. It is needed to eliminate the confusion and occasional contradictions found throughout Chapter 1705 wherever sampling size is addressed. It is reasonable in that it reflects either the current rule or a reduction in sample size imposed by the current rule. Because it differentiates herds where there are breeding swine present from herds where there are no breeding swine, the reduced sample size does not endanger breeding herds.

Subpart 6b

This is also a new definition. Its addition is simply a necessary housekeeping change because the defined term, representing a specific requirement, presently appears several times in the rules without definition.

Subpart 10

This subpart defines "restricted-movement swine". The present definition, however, is somewhat inaccurate in that the pseudorabies status of swine does not have to be unknown for the swine to fit within that classification. Therefore, striking the words "of unknown pseudorabies status" is necessary to correct the definition. This change is reasonable because the usage of this term within the other parts of this chapter conforms more with the amended definition than with to the present definition.

1705.2410 PSEUDORABIES TEST PROCEDURES

This part is unchanged.

1705.2420 DISEASE REPORTING

This part is unchanged.

1705.2430 INFECTED HERD QUARANTINE AND DISPOSAL PROCEDURES

Subpart 2

The changes in this subpart serve to reduce the number of swine which must be tested when infection is suspected in the herd. In large herds, the present requirement of ten percent of the herd could represent a very large number of swine which must be tested, imposing a major financial burden on the herd owner. Statistically, such a large number is not necessary to ensure a high probability of detecting infection. The addition of language permitting state funds to be used for testing if available for this purpose is needed to make this subpart conform with all the other subparts in this chapter which permit state funds to be used for such testing.

Thus, the proposed changes in sample size and funding of tests are needed to alleviate an unfair and unnecessary burden. The changes are reasonable because they help to equalize testing requirements throughout the chapter without increasing the load on any group. Further, the change relating to state funding is reasonable because it does not require state funding unless such funds are available for this purpose.

Subpart 3

The proposed changes in this subpart are of a housekeeping nature only, in that a "shipping permit" is obsolete.

Subpart 4

This specifies the chapters of the rules rather than the more general, "these rules", referring to the Pseudorabies Control rule.

1705.2434 APPROVED PREMISES PROCEDURES

Subpart 1

Again, the proposed changes in this subpart are for housekeeping purposes. The term "shipping permit" is obsolete and is therefore stricken; the modifier "during business hours" was misplaced and is therefore being moved; and the reference to "item F" is stricken to reflect changes made in the referenced part.

Item F

Shipping permit is obsolete and is therefore stricken. Subpart 3a is nonexistent, the correct reference is to Subpart 3, item A of 1705.2430.

1705.2440 RELEASE OF QUARANTINE

Subpart 1

Other than another housekeeping change related to the obsolete "shipping permit", all changes to this subpart have been made in order to clarify the procedures and testing required for offspring segregation from a quarantined herd. The present rule requires that all progeny must be tested twice after segregation from the parent herd. The Board feels that this requirement is excessive and that one test of each offspring, properly timed, would be just as effective for disease control but at only half the cost to the herd owner.

The change is needed to reduce the herd owner's costs and is reasonable because it reduces the burden on the owner without jeopardizing the public welfare.

1705.2450 PSEUDORABIES TRACE TO SOURCE OR DESTINATION HERDS

Subpart 2

As in Part 1705.2430, subpart 2, the proposed change in this subpart is needed to alleviate the excessive testing required by the present rule. A ten percent sample is an unnecessarily high number. Taking a monitoring sample of the entire herd, while testing far fewer animals in many cases, still allows for a high probability of finding the disease if it is there. The proposed change is reasonable because, again, it reduces the burden on the producer without endangering the public welfare.

1705.2460 INTRASTATE MOVEMENT OF BREEDING SWINE

Subpart 1

The word "any" is added to help clarify a long sentence with a confusing series of words. The requirement that an eartag be made of metal is removed to permit the use of the safer plastic eartags. These changes are reasonable because they do not place any extra burden on the pork producer.

Subpart 2

The descriptive phrase was stricken as unnecessary and confusing to the meaning of this subpart. The proposed change is reasonable because it reflects current practice

and conforms to other parts of this rule.

Subpart 8

The addition of a reference to subpart 7 is necessary because subpart 8 does not specify when and how the testing is to be done. The present rule merely implies that this information is found elsewhere in this part. The added language is a housekeeping change meant to clarify the meaning of this subpart.

1705.2470 INTRASTATE MOVEMENT OF FEEDER PIGS

In the present rules, many of the regulations pertaining to the intrastate movement of feeder pigs are not to be found in this part. Previous additions to these rules had resulted in this information being scattered among several parts. The few proposed changes to the existing part 1705.2470 represent no substantive changes but rather housekeeping changes needed to consolidate all of the rules on this topic into this one part.

Subpart 2

This subpart in the present rule is repealed, because the same requirements appear in part 1705.2472, subpart 2, and are to be renumbered and moved to this part along with other information on feeder pigs contained in part 1705.2472 (See "Renumber"). The language in this subpart is repealed rather than the language in part 1705.2472 because the newer language of part 1705.2472 more closely reflects current practice.

The change is needed to avoid duplication as well as some slight conflict between the two subparts. The change is reasonable because it is merely of a housekeeping nature.

Subpart 2a

The addition of this language to part 1705.2470 is necessary because these requirements presently appear in part 1705.2472, mixed in the same sentence with rules pertaining to breeding swine. The present rule is thus extremely confusing on this topic. The change is reasonable because there is no change from the meaning of the present rule, only in the placement of this item.

1705.2472 CONTROL AND ERADICATION OF PSEUDORABIES

The present wording of this part contains a plan for phased-in control of pseudorabies. All of this plan has now been accomplished. Relatively hidden within this plan are rules still in effect pertaining to movement of feeder pigs and, in one case, to movement of breeding swine.

All of the proposed changes to this part serve to accomplish two ends:

(1) to delete the many lines of references to a plan which has been completed, and

(2) to move regulations about movement of feeder pigs or breeding swine into the two parts of the present rule which address those topics.

The resulting rule as amended will be far less wordy and will be much more clear. There are no substantive changes proposed in this part.

Subpart 1

The proposed deletions are needed to remove obsolete language on the timing of the Board's plan for phasing in pseudorabies control measures. The language to be deleted serves only as foliage hiding those rules which are still applicable in this part. The change is reasonable because the Board has already taken the action in question and all applicable rules pertaining to that action appear in other subparts or parts of this chapter.

Subpart 2

The introductory language of subpart 2 is deleted to facilitate the division of this one large subpart into several smaller new items. These in turn will then be moved to other parts within this chapter for the sake of increased clarity and a more concise, logical flow of information. (See "Renumber").

Items A and B of this subpart pertain to source herds for feeder pigs and whether or not testing will be required, based on the nature of the source herd. The proposed changes to these two items, as well as the new headliner, are needed to condense this information into a unit.

Item C has two slight changes that are proposed in the language of this item for housekeeping purposes.

Item D contains two proposed deletions designed to make the wording of this unit more closely approximate earlier wording on identification of feeder pigs.

Item E is unchanged other than a new headliner.

The net result of the proposed changes to this subpart described so far is to organize and move rules about feeder pigs out of this part (1705.2472) and into the appropriate places in part 1705.2470, which addresses the subject of feeder pigs. (See "Renumber").

All of item F, with the exception of subitem 3, is deleted because the information contained therein is both obsolete and redundant. This item historically placed restrictions on approved premises in the northern zone, but these restrictions now already appear in the exact same form in part 1705.2434, the part that relates to approved premises procedures.

Item F, subitem 3, covers the movement of either feeder pigs or breeding swine into the northern zone. New language added to part 1705.2470, discussed earlier, ensures that the rule pertaining to movement of feeder pigs will now be in the part covering feeder pigs. The proposed changes to item F, subitem 3, permit the same to be done for breeding swine. This unit will be renumbered and moved to part 1705.2460, subpart 8a, to become incorporated into the part of the rule that relates to movement of breeding swine. (See "Renumber").

All of the proposed changes to this subpart are needed to permit the movement and reorganization of the information into a format that will be more easily used by the pork producer. The changes are reasonable because they are for housekeeping purposes only.

Subpart 3

This subpart also contains much dated language referring to plans which have now been carried out. All of the proposed changes in this subpart are needed to reflect that fact and are reasonable in that they are only of a housekeeping nature.

1705.2474 PSEUDORABIES MONITORED HERD PROCEDURES

Subpart 1

The proposed changes to this subpart serve to clarify how any herd, whether a breeding herd or other, may attain monitored status. The present rule addresses only breeding herds. The present rule also incorrectly covers

remonitoring in this subpart. Other than opening up monitored herd status to non-breeding herds, the proposed changes are primarily of a housekeeping nature. The changes are needed to clarify the subject and to include non-breeding herds. The changes are reasonable because they are not substantive in nature.

Subpart 3

The proposed changes to this subpart are also needed to bring this subpart into conformity with the remainder of the rule on monitoring of herds. In addition, the term "monitoring sample" is again substituted for the unclear "representative sample". These changes are reasonable because no changes are placed on the industry from present requirements.

The proposed new language added to this subpart applies to the producer using an "all-in/all-out" management system. This new language is necessary to eliminate the requirement for extra testing in such herds. Because these herds are completely eliminated before replacement animals are brought in, the annual testing would not be needed to control disease. Instead, in these cases it would simply represent an undue burden on the producer. The new language is reasonable because it reduces the burden on the industry without sacrificing the public welfare.

Subpart 4

This subpart is proposed to be repealed. With the new testing methodology now available, pseudorabies-vaccinated herds can be monitored no differently from other herds. The repeal of this subpart is necessary to rid the rule of obsolete regulations and is reasonable because it represents no changes imposed on the industry.

1705.2476 PSEUDORABIES SURVEILLANCE AND CONTROL OF SPREAD

In general, the proposed changes to this part again represent the need for updating the rule so that it reflects the present state of operations, for clarifying and standardizing the sample sizes required, and for correcting awkward grammar or wording.

Subpart 1

This subpart is updated to indicate that the eradication of the disease is now the purpose for the continuation of the efforts described by this part.

Subpart 2

Because the program described by this subpart has now been developed, this subpart is also updated.

Subpart 3 (to be repealed)

The wording of this subpart was only applicable until the program of full monitoring, described in subpart 7 of this part, was put into effect. That has since been accomplished, so subpart 3 needs to be repealed as obsolete and redundant to subpart 7.

Subpart 4

The proposed changes to this subpart, as in much of this chapter, serve to standardize and clarify sample size.

Subpart 6

As with subpart 4, above, the proposed changes here serve to standardize and clarify sample size.

Subpart 7

This subpart originally imposed a program of herd monitoring to be started by a certain date in 1991. That date has now passed, the program has begun and is ongoing, and the wording of this subpart needs to be updated to reflect that fact. Some deletion of redundant language has also been accomplished.

Subpart 8

As with the previous subpart, all references to dates since passed, and to phases of control efforts now over with, are proposed to be deleted, in order to update this subpart.

All proposed changes in this part are needed to eliminate obsolete references and extra language which only serve to confuse the reader. The changes are reasonable because no burden is imposed on the pork industry or the public in general by the language changes. These changes are of a housekeeping nature only.

1705.2480 QUALIFIED PSEUDORABIES-NEGATIVE HERD PROCEDURES

Subpart 1

The present wording of this subpart is confusing for two reasons. First, item B runs on for several lines and contains several items. The juxtaposition of all of these phrases within one item permits a number of possible interpretations of the rule. Second, a reference is made to "a herd agreement of compliance". This term is not defined and, in fact, does not represent a specific document or form.

The proposed changes to this subpart are necessary to

correct the confusion caused by the rule in its present form. No substantive changes are being proposed.

Subpart 3

As with subpart 1, the present wording in this subpart leaves the reader confused as to the exact requirements needed for compliance with the rule. The proposed changes are needed for clarity only, and do not change the intent of the rule in any way.

1705.2490 PSEUDORABIES-CONTROLLED VACCINATED HERD PROCEDURES

Subpart 4

Because of advancements in testing methodology in recent years, some slight changes are needed in this subpart to specify the testing method to be used for vaccinated swine. Further, the original wording was unclear as to how unvaccinated swine may be sold; clarification is needed via the proposed changes in the headliner and the first two words. The proposed changes are reasonable as they do not change the intent of the original rule.

Subpart 5

The present rule contains an incorrect reference. The change proposed in this subpart is for housekeeping purposes, to correct the reference.

Subpart 6

The proposed changes in this subpart are included simply to break up and clarify a long, rambling sentence. They are reasonable because they make the rule more comprehensible and place no burden on any party.

1705.2500 COMMUNITY NOTIFICATION OF PSEUDORABIES INSPECTION

This part is unchanged.

1705.2510 EXHIBITION OF SWINE

Subpart 5

The proposed addition to this subpart informs the reader of additional rules related to exhibition of swine, rules which are found in another chapter entirely. This reference needs to be added. This change is reasonable because it is made only for clarification.

1705.2520 TRANSPORTATION OF PSEUDORABIES INFECTED OR EXPOSED ANIMALS

This part is unchanged.

1705.2530 EXPERIMENTAL USE OF DIAGNOSTIC BIOLOGICAL PRODUCTS

This part is unchanged.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULES

In assessing the economic impact of the proposed changes, the Board considers them favorable to small businesses. The reasons are:

- (1) Pork producers without breeding swine on the premises will be able to cut their testing requirements in most cases, (up to as much as half in some cases), thus incurring fewer expenses related to pseudorabies testing than is presently the case.
- (2) Offspring of a quarantined herd, under the approved offspring segregation plan, will require only one test instead of two for quarantine release. This will cut testing costs in half.
- (3) Finishing swine managed under all-out status requirements will not need to be tested annually to maintain pseudorabies monitored status. This change will also save the producer from some expense.
- (4) The revised rules will be more concise and easier to read and understand.

Dated: 7-7-1993


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