

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Agriculture
(Agency or Board)

Regulation No. Agr 458 – 526 (amended)

Subject: National Poultry Improvement Plan

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

NOV 13 1973 9:10 am

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 11-12-73

Rev. 9-72

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Thomas Kalitowski do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Thomas Kalitowski

Special Assistant Attorney General

Dated: October 24 1973

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT of Agriculture

Office Memorandum

TO : J. Patrick Wilcox
Office of the Attorney General
Department of Administration

DATE: October 24, 1973

Received
10-24-73
JPW

FROM : Thomas Kalitowski
Special Assistant Attorney General

SUBJECT: AMENDMENT TO DEPARTMENT OF AGRICULTURE REGULATIONS, CHAPTER 21, AGR 458-542

Please find attached the following sets of documents relating to the subject:

Set No. 1:

1. Copy of Amendments/New Rules to be Adopted

2. (a) Statement of Compliance with Rule Making Procedures
   (b) Order of Hearing
   (c) Statement of Need
   (d) Notice of Hearing
   (e) Regulation as Proposed at Hearing
   (f) Affidavit of acquisition of the Secretary of State's mailing list
   (g) Affidavit of mailing
   (h) Finding of Fact
   (i) Order Adopting Rules

3. Transcript of Public Hearing

Sets No. 2 and No. 3:

1. Copy of Amendments/New Rules to be Adopted

2. Items (a) through (i) as listed above

Sets No. 4 and No. 5:

1. Copy of Amendments/New Rules to be Adopted

TK/jb
Enclosures

RULES AND REGULATIONS RELATING TO THE MINNESOTA-NATIONAL POULTRY ~~AND TURKEY~~ IMPROVEMENT PLAN AMENDING DEPARTMENT OF AGRICULTURE REGULATIONS, CHAPTER 21, AGR 458-542.

Department of Agriculture Regulations, Chapter 21, Agr 458-542 are amended to read as follows:

Agr 458 Definitions

(a) Except where the context otherwise requires, for the purposes of this part the following terms shall be construed, respectively, to mean:

(1) Plan. The provisions of the National Poultry Improvement Plan contained in this part.
(2) Person. A natural person, firm, or corporation.
(3) Commissioner. The Commissioner of Agriculture. ~~Dairy and Food.~~
(4) Department. The Minnesota Department of Agriculture, ~~Dairy and Food~~ unless otherwise indicated.
(5) Board. The Minnesota State Livestock Sanitary Board.
(6) State. Any State, the District of Columbia, or Puerto Rico.
(7) Official State Agency. The State authority recognized by the United States Department of Agriculture to cooperate in the administration of the Plan.
(8) State Inspector. Any person employed or authorized by the Department to do inspection work under this program.
(9) Authorized Agent. Any person authorized by the Department to do flock selection work.
(10) ~~ROP SUPERVISOR~~ - Delete and add a new definition:
(10) Poultry. Domesticated fowl, including chickens, waterfowl and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.
(11) ~~ROP Inspector~~ - Delete and add a new definition.
(11) Domesticated. Propagated and maintained under the control of a person.
(12) Affiliated flockowner. A flockowner who is participating in the Plan through an agreement with a participating hatchery.
(13) Independent flockowner. A flockowner who is participating in the Plan through an agreement with the Department.
(14) Flock.
aa. As applied to breeding. All poultry of one kind of mating (breed and variety or combination of stocks) and of one classification on one farm.
bb. Delete.
(15) Hatchery. Hatchery equipment on one premises operated or controlled by any person for the production of ~~chicks~~ baby poultry.
(16) Products. ~~Chicken~~ Poultry breeding stock, hatching eggs, ~~and chicks~~ baby poultry and started poultry.
(17) Dealer. A person dealing in hatching eggs, breeding stock or ~~chicks~~ poultry who does not operate a hatchery.
(18) Baby ~~chicks~~ Poultry. ~~Chicks~~ Newly hatched poultry (chicks, ducklings, goslings, keets, etc.) that have not been fed or watered.
(19) U.S. ROP or ROP - Delete and add a new definition.
(19) Started Poultry. Young poultry (chicks, pullets, cockerels, capons, ducklings goslings, keets, etc.) that have been fed or watered and are less than six months of age.

Agr 458 (continued)

(20) Strain. ~~Chicken~~ Poultry breeding stock bearing a given name produced by a breeder through at least five generations of closed flock breeding.

(21) Operating Year. The period from July 1 through June 30 or any portion thereof.

Add new definitions as follows:

(22) Stock. A term used to identify the progeny of a specific breeding combination within a species of poultry. These breeding combinations may include pure strains, strain crosses, breed crosses, or combinations thereof.

(23) Trade name or number. A name or number compatible with State and Federal laws and regulations applied to a specified stock or product thereof.

(24) Franchise breeder. A breeder who normally sells products under a specific strain or trade name and who authorizes other hatcheries to produce and sell products under this same strain or trade name.

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(28) Game birds. Domesticated fowl such as pheasants, partridge, quail, grouse, and guineas, but not doves and pigeons.

(29) USDA. United States Department of Agriculture

Agr 459 Administration.

(a) As authorized by Chapter ~~36~~ 29 Minnesota Statutes ~~1957,~~ 1971, ~~as amended by Minnesota Law 1959 Chapter 116,~~ the Department cooperates with the United States Department of Agriculture through a Memorandum of Understanding in the administration of the Plan. The Department cooperatively with the Board, shall carry out the administration of the Plan within the State of Minnesota according to the applicable provisions of the Plan and Memorandum of Understanding.

(b) The Department may accept for participation an affiliated flock located in another state under a mutual understanding and agreement between the two official state agencies regarding conditions of participation and supervision.

(c) The Department may adopt regulations applicable to the administration of the Plan in the State of Minnesota further defining the provisions of the Plan or establishing higher standards compatible with the Plan.

Agr 460 Participation.

(a) Any person producing or dealing in poultry products may participate in the Plan when he has (1) demonstrated, to the satisfaction of the Department, and the Board, that his facilities, personnel, and practices are adequate for carrying out the applicable provisions of the Plan; and (2) signed an agreement with the Department, and the Board, to comply with the general and the applicable specific provisions of the Plan and any regulations of the Department adopted in accordance with Agr 459.

Affiliated flockowners may participate without signing an agreement with the Department.

(b) Each participant shall comply with the Plan throughout the operating year of the Department, or until released by the Commissioner and the Executive Officer of the Board.

Agr 460 (continued)

(c) A participant shall participate with all of his ~~chicken~~ poultry hatching egg supply flocks and hatchery operations within the State.

(d) No person shall be compelled by the Department to qualify products for ~~any of~~ the classifications described in Agr 470 (a) as a condition of qualification for participation in the Plan.

(e) Participation in the Plan shall entitle the participant to use the Plan emblem reproduced below:

P L A N

E M B L E M

Agr 461 General provisions for all participants

(a) Records of purchases, sales, eggs set, hatchability and the identity of products handled shall be maintained in a manner satisfactory to the Department. The purchaser shall keep on file for each lot of eggs or chicks purchased, an invoice or NPIP 15 from the seller stating the seller's name, address, date of shipment, quantity, breed and pullorum classification thereof.

(b) Products and the sales and purchases thereof, records of eggs set, hatchability and material used to advertise products shall be subject to inspection by the Department at any time.

(c) Advertising must be in accordance with the Plan, and applicable rules and regulations of the Department and the Federal Trade Commission. ~~In the event that the advertising of any participant is found to be in violation of this regulation the participant shall be placed upon probation for a period of 2 years during which time he shall submit every proposed piece of advertising intended for use in any advertising medium to the Department for approval before it is printed or used. The failure of a participant on probation to submit advertising for prior approval will be sufficient cause for dropping him from participation in the Plan.~~ A participant advertising products as being of any official classification may include in his advertising reference to associated or franchised hatcheries only when such hatcheries produce the same kind of products of the same classification.

(d) Participants may not buy or receive for any purpose, products from nonparticipants, or sell products of nonparticipants, except with the permission of the Department and the Board for use in breeding flocks or for experimental purposes.

(e) The minimum weight of chicken hatching eggs sold shall be 1-11/12 oz. each for replacement stock and 1-10/12 oz. each for broiler stock, except as otherwise specified by the purchaser of the eggs.

(f) Each shipment of products to points outside the continental United States shall be accompanied by a properly executed Form NPIP-15F, Report of Sales of Hatching Eggs, Chicks and Poults (For Shipment Outside the United States).

Agr 462 Specific provisions for participating flocks.

(a) Poultry houses and the land in the immediate vicinity thereof shall be kept in sanitary condition acceptable to the Department. <u>The participating flock, its eggs, and all equipment used in connection with the flock shall be separated from nonparticipating flocks in a manner acceptable to the Department and the Board.</u>

Agr 462 (continued)

~~The minimum requirements with respect to sanitation shall include the following:~~

~~1. The area adjacent to the poultry house shall be kept free from accumulated manure, rubbish and unnecessary equipment.~~

~~2. Dead birds shall be disposed of promptly by burial, disposal pits or incineration.~~

~~3. Poultry houses shall be screened and proofed against free flying birds and rodents. (This also includes the use of the rodenticides).~~

~~4. Dropping boards and manure and disposal pits shall be constructed so the birds do not have access to them.~~

~~5. Watering devices shall be maintained in a manner which will aid in the prevention of wet litter.~~

~~6. Clean nests or nesting material shall be provided in each nesting area.~~

(b) All flocks shall consist of healthy, normal individuals characteristic of the breed and variety, cross, or other combination which they are stated to represent.

(c) A flock shall be deemed to be a participating flock when it meets all requirements of the Department and in addition, has been officially ~~blood tested within the past twelve months with no pullorum typhoid reactors on the last test.~~ qualified for a Minnesota-U.S. Pullorum Typhoid Clean classification by the Board.

(d) Each bird shall be identified with dye or an approved and sealed numbered band ~~or approved dye~~ obtained from the Department.

~~(e) Participating flocks shall be kept confined to the laying house or a yard adjacent to the laying house, throughout the breeding season in a manner acceptable to the Department.~~

Agr 463 Specific provisions for participating hatcheries.

(a) Hatcheries, including brooder rooms, shall be kept in sanitary condition, acceptable to the Department. The minimum requirements with respect to sanitation shall include the following:

1. Incubator walls, floors and trays shall be kept free from broken eggs and egg shells.

2. Tops of incubators and hatchers shall be kept clean (not used for storage).

3. Entire hatchery, including sales room, shall be kept in a neat, orderly condition and free from accumulated dust.

4. Hatchery residue such as egg shells, infertile eggs and dead germs shall be disposed of promptly.

5. Hatchers and hatching trays shall be cleaned and fumigated or disinfected after each hatch.

(b) A hatchery which keeps started poultry (poultry that has been fed or watered) must keep such poultry separated from the incubator room in a manner satisfactory to the Department. The minimum requirements with respect to brooder rooms shall include the following:

Agr 463 (continued)

1. Brooder rooms shall be separated from the incubator room by a solid partition preferably with an outside entrance. Doors opening from the brooder room into any incubator area shall be kept closed at all times except when in actual use.

2. Tops of battery brooders shall be kept clean (not used for storage).

3. Walls, ceilings, and floors shall be kept clean at all times.

4. Ventilation system shall be separate from the incubator room ventilation system.

5. Dead chicks, droppings and other refuse shall be removed and disposed of promptly.

(c) All ~~chicks~~ poultry offered for sale under Plan terminology shall be normal and typical of the breed and variety, cross, or other combination represented.

(d) Eggs incubated shall be sound in shell, typical for the breed and variety, strain, or cross thereof and reasonably ~~free from tints~~ uniform in shape. Hatching eggs shall be trayed and the ~~chicks~~ poultry boxed with a view to uniformity of size.

(e) All hatcheries within a State which are operated under the ownership or management of the same person or persons or related corporations, or in which the same person or persons have a substantial financial interest as partners or otherwise, shall participate in the Plan if any of them are to participate. ~~All breeding and supply flocks, hatching eggs and chicks of such hatcheries shall meet the same pullorum typhoid classification.~~

Agr 464 Specific provisions for participating dealers. Dealers in ~~chicken~~ poultry breeding stock or hatching eggs or ~~chicks~~ poultry shall comply with all provisions in this part which apply to their operations.

Agr 465 Supervision.

(a) The Department may designate qualified persons as Authorized Agents to do the selecting work provided for in Agr 462 and Agr 470.

(b) The Department shall employ or authorize qualified persons as State Inspectors to perform, or supervise the performance of, the selecting of participating flocks and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

(c) Authorities issued under the provisions of this section shall be subject to cancellation by the official State agency on the grounds of incompetence or failure to comply with the provisions of the plan or regulations of the official State agency. Such actions shall not be taken until a thorough investigation has been made by the official State agency and the authorized person has been given notice of the proposed action and the basis therefor and an opportunity to present his views.

Agr 466 Inspections.

(a) Each participating hatchery shall be inspected a sufficient number of times each year to satisfy the Department that the operations of the hatchery are in compliance with the provisions of the Plan.

(b) Each year a sample of the flocks selected by each Authorized Agent shall be inspected by a State Inspector. This must include the inspection of a minimum of 15 percent of the flocks of each hatchery. Each flock inspection shall include the examination of a sufficient number of males and females to determine whether the

Agr 466 (continued)

work of the Authorized Agent was satisfactory and that the flock is qualified for participation.

Agr 467 Debarment from participation. Non-compliance with the provisions of the Plan, or regulations of the Department not corrected within the time specified by the Department, shall be grounds for the Department to bar a participant from further participation for a period to be determined in each case by the Department. Such action shall not be taken until thorough investigation has been made by the Department and the participant has been given an opportunity for a hearing.

Agr 468 Terminology and classification; general.

(a) The official classification terms defined in Regulations Agr 469 and Agr 470 and the various designs illustrative of the official classifications may be used only by those who are participating in the Plan with both the Department and the Board and to describe products that have met all the specific requirements of such classifications.

(b) Products produced under the Plan shall lose their identity under Plan terminology when they are purchased for resale by, or consigned to nonparticipants.

(c) Participating flocks and the eggs and ~~chicks~~ poultry produced from them may be designated by their strain or trade name. When a breeder's name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either (1) birds hatched from eggs produced under the direct supervision of the breeder of such strain or (2) stock multiplied by persons designated and so reported by the breeder to each Official State Agency concerned.

~~(d) Domesticated waterfowl, game birds, and guineas meeting the requirements for participation for any of the classifications specified in Section C-13 may be designated as coming within such classification.~~

Agr 469 Terminology and classification; hatcheries and dealers.
Participating hatcheries and dealers shall be designated as "Minnesota National Plan Hatchery" and "Minnesota National Plan Dealer" respectively.
Each participating hatchery or dealer may be assigned a permanent approval number by the USDA. This number may appear on each invoice and shipping label for each separate sale of products. The approval number shall be withdrawn when the hatchery or dealer no longer qualifies for participation in the Plan.

Agr 470 Terminology and classification; flocks and products.

Participating flocks and the eggs and poultry produced from them, which have met the respective requirements specified in this section may be designated by the following terms or their illustrative designs.

(a) Minnesota - U.S. Approved. All males and females selected by Authorized Agents according to standards prescribed by the Department and the Department of ~~Poultry Husbandry,~~ Animal Science, University of Minnesota Institute of Agriculture and such standards are approved by the USDA. ~~Males and females shall not be used in Minnesota U.S. Approved flocks, if they are showing any of the following conditions:~~

~~1. Physical deformities such as, crooked back, wry tail, crooked beak, extremely crooked breast bone, or toes, or other serious deformity.~~

~~2. Evidence of any disease, for example, mis shapen pupil or deformed legs indicative of leukosis.~~

(b) (c) (d) (e) - Delete.

Agr 471 ~~U.S.R.O.P.---General-~~ - Delete and add the following:

Agr 471 Fees and Charges. The fees for inspection and supervision, and charges for supplies to be paid to the Department in connection with participation in the Plan shall be as follows:

(a) Annual minimum fees:

Hatcheries	$15.00
Dealers	$15.00
Independent flocks	$ 5.00
~~Affiliated flocks----------0.70~~	

The annual minimum fee for hatcheries, dealers and independent flocks shall be paid at the time the agreement for participation is submitted to the Department. ~~Affiliated flock fees shall be paid on or before June 30 of each operating year.~~

(b) Capacity fees:

$0.50 per 1000 egg capacity actually used, including incubators and hatchers to 200,000 capacity.
$0.25 per 1000 egg capacity actually used, including incubators and hatchers, for that capacity in excess of 200,000 egg capacity. Provided that, the annual minimum hatchery fee shall be deducted from the capacity fee in the final accounting for the operating year. The capacity fee shall be paid to the Department on or before June 30 of each operating year.

(c) Identification bands. ~~dye and labels,~~

Aluminum Leg Bands	$8.00 per 1000 bands.
~~Approved Dye~~	~~$8.00 per 1000 birds in participating flocks.~~
~~Official Labels~~	~~$14.00 per 1000 labels.~~

When dye is used in lieu of bands to identify birds in supply flocks, the fee shall be $8.00 per 1000 birds retained in such flocks.

~~(d) Record of Performance.~~

~~1. For breeders trapping candidates $100.00 minimum, plus $0.17 per bird, for each bird in excess of 300 birds, with a maximum of $200.00.~~

~~2. For breeders with single male R.O.P. pens only, $50.00 minimum and $5.00 per pen for each pen in excess of 10 pens.~~

(d) ~~(e)~~ The participant shall furnish transportation or reimburse the State for transportation for the State Inspector on flock inspection work.

~~Agr 472 U.S. ROP; Qualification of Females~~ Delete
~~Agr 473 U.S. ROP; Qualification of males~~ - Delete
~~Agr 474 U.S. ROP; Sale of Products~~ - Delete
~~Agr 475 U.S. ROP; Annual Summary~~ - Delete
~~Agr 476 U.S. ROP; Duties of ROP Supervisor~~ - Delete
~~Agr 477 U.S. ROP; Duties of ROP Inspector~~ - Delete
~~Agr 478 U.S. Performance Tested Parent Stock; General~~ - Delete
~~Agr 479 U.S. Performance Tested Parent Stock; Entry~~ - Delete
~~Agr 480 U.S. Performance Tested Parent Stock; Qualification~~ - Delete
~~Agr 481 U.S. Performance Tested Parent Stock; Sale of Products~~ - Delete
~~Agr 482 U.S. Performance Tested Parent Stock; Annual Summary~~ - Delete
~~Agr 483 Central Random Sample Egg Production Test~~ - Delete
~~Agr 484 Multiple Unit Random Sample Egg Production Test~~ - Delete
~~Agr 485 Central Random Sample Meat Production Test~~ - Delete
~~Agr 486 Fees and Charges~~ - Delete

Agr 472-496 Reserved for future use.

~~PART T---NATIONAL TURKEY IMPROVEMENT PLAN--~~

Agr 497 through Agr 526 - Delete

Agr 497-542 - Reserved for future use

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
NOV 13 1973 9:10 am
BY Ida Staudenmaier
AUTH. SIGNATURE

APPROVED AS TO FORM AND LEGALITY
Nov. 8 1973
WARREN SPANNAUS, ATTORNEY GENERAL
BY Robert Wilson
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 12 1973 - 4:00 pm
Arlen I. Erdahl
Secretary of State

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Thomas Kalitowski do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Thomas Kalitowski
Special Assistant Attorney General

Dated: October 24, 1973

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In a matter of Proposed Amendments of the Rules and Regulations of the Minnesota Department of Agriculture relating to the National Poultry Improvement Plan and National Turkey Improvement Plan AGR 458 through AGR 542

ORDER FOR HEARING

To effectively implement Minnesota Statutes 1971, Sections 29.001 through 29.081 the Commissioner of Agriculture deems it necessary to consider adoption of proposed amendments to the rules and regulations captioned above pursuant to the authority vested in him by Minnesota Statutes 1971, Section 29.021.

NOW, THEREFORE, IT IS ORDERED this 23rd day of July 1973, that a public hearing will be held by said Department beginning at 2:00 P.M. on September 12, 1973 in the City of St. Paul in Room B of the Veterans Service Building.

The scheduled hearing shall continue until all interested persons or their representatives present have had an opportunity to be heard. The hearing shall be conducted in accordance with the Administrative Procedure Act, Minnesota Statutes 1971, Section 15.01 - 15.41, as amended.

IT IS FURTHER ORDERED that the notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA

Jon Wefald

Jon Wefald
Commissioner of Agriculture

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of Proposed Amendments to the Regulations of the Minnesota Department of Agriculture Relating to the Minnesota National Poultry and Turkey Improvement Plans, Agr 458-542.

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the Department of Agriculture. The last time the above captioned rules were amended was November 21, 1962.

The need to adopt these amendments arises because of significant changes in the rules of the National (USDA) Poultry Improvement Plan rules which changed and deleted a number of the breeding classifications, such as: U. S. Certified, U. S. Performance Tested Chicken Classifications and the U. S. Approved Turkey Classification. These changes made it necessary to delete these classifications from the Minnesota program. Other changes including the addition of a number of definitions were also necessary.

COMMISSIONER OF AGRICULTURE

Jon Wefald

State of Minnesota

County of Ramsey

Before Jon Wefald
Commissioner
Minnesota Department of Agriculture

In a matter of Proposed Amendments of the Rules of the Minnesota Department of Agriculture relating to the National Poultry Improvement Plan and National Turkey Improvement Plan
AGR 458 through AGR 542

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to MS 1971, Section 15.0412, Subdivision 4, in the above entitled matter in Room B, Veterans Service Building, St. Paul, Minnesota on September 12, 1973, commencing at 2:00 P.M. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing by mailing to the Commissioner of Agriculture, Minnesota Department of Agriculture, Room 530 State Office Building, St. Paul, Minnesota 55155.

The proposed rule changes are designed to bring the program up to date and compatible with the USDA National Poultry Improvement Plan rules and to eliminate rules pertaining to classifications which are no longer recognized. Also to delete the regulations relating to the National Turkey Improvement Plan since breeding classifications are no longer recognized in this phase of the program.

Copies of the proposed rule changes may be obtained by writing to:

Minnesota Department of Agriculture
Division of Poultry Industries
State Office Building
St. Paul, Minnesota 55155
Telephone (612) - 296 2861

STATE OF MINNESOTA

Jon Wefald
Commissioner of Agriculture

Dated this 23rd day of July 1973

PROPOSED

RULES AND REGULATIONS RELATING TO THE MINNESOTA-NATIONAL POULTRY ~~AND TURKEY~~ IMPROVEMENT PLAN AMENDING DEPARTMENT OF AGRICULTURE REGULATIONS, CHAPTER 21, AGR 458-542.

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(5) Board. The Minnesota State Livestock Sanitary Board.

(6) State. Any State, the District of Columbia, or Puerto Rico.

(7) Official State Agency. The State authority recognized by the United States Department of Agriculture to cooperate in the administration of the Plan.

(8) State Inspector. Any person employed or authorized by the Department to do inspection work under this program.

(9) Authorized Agent. Any person authorized by the Department to do flock selection work.

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Agr 458 (continued)

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(a) Any person producing or dealing in poultry products may participate in the Plan when he has (1) demonstrated, to the satisfaction of the Department, and the Board, that his facilities, personnel, and practices are adequate for carrying out the applicable provisions of the Plan; and (2) signed an agreement with the Department, and the Board, to comply with the general and the applicable specific provisions of the Plan and any regulations of the Department adopted in accordance with Agr 459.

Affiliated flockowners may participate without signing an agreement with the Department.

(b) Each participant shall comply with the Plan throughout the operating year of the Department, or until released by the Commissioner and the Executive Officer of the Board.

Agr 460 (continued)

(c) A participant shall participate with all of his ~~chicken~~ poultry hatching egg supply flocks and hatchery operations within the State.

(d) No person shall be compelled by the Department to qualify products for ~~any of~~ the classifications described in Agr 470 (a) as a condition of qualification for participation in the Plan.

(e) Participation in the Plan shall entitle the participant to use the Plan emblem reproduced below:

P L A N

E M B L E M

Agr 461 General provisions for all participants

(a) Records of purchases, sales, eggs set, hatchability and the identity of products handled shall be maintained in a manner satisfactory to the Department. The purchaser shall keep on file for each lot of eggs or chicks purchased, an invoice or NPIP 15 from the seller stating the seller's name, address, date of shipment, quantity, breed and pullorum classification thereof.

(b) Products and the sales and purchases thereof, records of eggs set, hatchability and material used to advertise products shall be subject to inspection by the Department at any time.

(c) Advertising must be in accordance with the Plan, and applicable rules and regulations of the Department and the Federal Trade Commission. ~~In the event that the advertising of any participant is found to be in violation of this regulation the participant shall be placed upon probation for a period of 2 years during which time he shall submit every proposed piece of advertising intended for use in any advertising medium to the Department for approval before it is printed or used. The failure of a participant on probation to submit advertising for prior approval will be sufficient cause for dropping him from participation in the Plan.~~ A participant advertising products as being of any official classification may include in his advertising reference to associated or franchised hatcheries only when such hatcheries produce the same kind of products of the same classification.

(d) Participants may not buy or receive for any purpose, products from nonparticipants, or sell products of nonparticipants, except with the permission of the Department and the Board for use in breeding flocks or for experimental purposes.

(e) The minimum weight of chicken hatching eggs sold shall be 1-11/12 oz. each for replacement stock and 1-10/12 oz. each for broiler stock, except as otherwise specified by the purchaser of the eggs.

(f) Each shipment of products to points outside the continental United States shall be accompanied by a properly executed Form NPIP-15F, Report of Sales of Hatching Eggs, Chicks and Poults (For Shipment Outside the United States).

Agr 462 Specific provisions for participating flocks.

(a) Poultry houses and the land in the immediate vicinity thereof shall be kept in sanitary condition acceptable to the Department. <u>The participating flock, its eggs, and all equipment used in connection with the flock shall be separated from nonparticipating flocks in a manner acceptable to the Department and the Board.</u>

Agr 462 (continued)

~~The minimum requirements with respect to sanitation shall include the following:~~

~~1. The area adjacent to the poultry house shall be kept free from accumulated manure, rubbish and unnecessary equipment.~~

~~2. Dead birds shall be disposed of promptly by burial, disposal pits or incineration.~~

~~3. Poultry houses shall be screened and proofed against free flying birds and rodents. (This also includes the use of the rodenticides).~~

~~4. Dropping boards and manure and disposal pits shall be constructed so the birds do not have access to them.~~

~~5. Watering devices shall be maintained in a manner which will aid in the prevention of wet litter.~~

~~6. Clean nests or nesting material shall be provided in each nesting area.~~

(b) All flocks shall consist of healthy, normal individuals characteristic of the breed and variety, cross, or other combination which they are stated to represent.

(c) A flock shall be deemed to be a participating flock when it meets all requirements of the Department and in addition, has been officially ~~blood tested within the past twelve months with no pullorum typhoid reactors on the last test.~~ qualified for a Minnesota-U.S. Pullorum Typhoid Clean classification by the Board.

(d) Each bird shall be identified with dye or an approved and sealed numbered band ~~or approved dye~~ obtained from the Department.

~~(e) Participating flocks shall be kept confined to the laying house or a yard adjacent to the laying house, throughout the breeding season in a manner acceptable to the Department.~~

Agr 463 Specific provisions for participating hatcheries.

(a) Hatcheries, including brooder rooms, shall be kept in sanitary condition, acceptable to the Department. The minimum requirements with respect to sanitation shall include the following:

1. Incubator walls, floors and trays shall be kept free from broken eggs and egg shells.

2. Tops of incubators and hatchers shall be kept clean (not used for storage).

3. Entire hatchery, including sales room, shall be kept in a neat, orderly condition and free from accumulated dust.

4. Hatchery residue such as egg shells, infertile eggs and dead germs shall be disposed of promptly.

5. Hatchers and hatching trays shall be cleaned and fumigated or disinfected after each hatch.

(b) A hatchery which keeps started poultry (poultry that has been fed or watered) must keep such poultry separated from the incubator room in a manner satisfactory to the Department. The minimum requirements with respect to brooder rooms shall include the following:

Agr 463 (continued)

1. Brooder rooms shall be separated from the incubator room by a solid partition preferably with an outside entrance. Doors opening from the brooder room into any incubator area shall be kept closed at all times except when in actual use.

2. Tops of battery brooders shall be kept clean (not used for storage).

3. Walls, ceilings, and floors shall be kept clean at all times.

4. Ventilation system shall be separate from the incubator room ventilation system.

5. Dead chicks, droppings and other refuse shall be removed and disposed of promptly.

(c) All ~~chicks~~ poultry offered for sale under Plan terminology shall be normal and typical of the breed and variety, cross, or other combination represented.

(d) Eggs incubated shall be sound in shell, typical for the breed and variety, strain, or cross thereof and reasonably ~~free from tints~~ uniform in shape. Hatching eggs shall be trayed and the ~~chicks~~ poultry boxed with a view to uniformity of size.

(e) All hatcheries within a State which are operated under the ownership or management of the same person or persons or related corporations, or in which the same person or persons have a substantial financial interest as partners or otherwise, shall participate in the Plan if any of them are to participate. ~~All breeding and supply flocks, hatching eggs and chicks of such hatcheries shall meet the same pullorum typhoid classification.~~

Agr 464 Specific provisions for participating dealers. Dealers in ~~chicken~~ poultry breeding stock or hatching eggs or ~~chicks~~ poultry shall comply with all provisions in this part which apply to their operations.

Agr 465 Supervision.

(a) The Department may designate qualified persons as Authorized Agents to do the selecting work provided for in Agr 462 and Agr 470.

(b) The Department shall employ or authorize qualified persons as State Inspectors to perform, or supervise the performance of, the selecting of participating flocks and to perform the official inspections necessary to verify compliance with the requirements of the Plan.

(c) Authorities issued under the provisions of this section shall be subject to cancellation by the official State agency on the grounds of incompetence or failure to comply with the provisions of the plan or regulations of the official State agency. Such actions shall not be taken until a thorough investigation has been made by the official State agency and the authorized person has been given notice of the proposed action and the basis therefor and an opportunity to present his views.

Agr 466 Inspections.

(a) Each participating hatchery shall be inspected a sufficient number of times each year to satisfy the Department that the operations of the hatchery are in compliance with the provisions of the Plan.

(b) Each year a sample of the flocks selected by each Authorized Agent shall be inspected by a State Inspector. This must include the inspection of a minimum of 15 percent of the flocks of each hatchery. Each flock inspection shall include the examination of a sufficient number of males and females to determine whether the

Agr 466 (continued)

work of the Authorized Agent was satisfactory and that the flock is qualified for participation.

Agr 467 Debarment from participation. Non-compliance with the provisions of the Plan, or regulations of the Department not corrected within the time specified by the Department, shall be grounds for the Department to bar a participant from further participation for a period to be determined in each case by the Department. Such action shall not be taken until thorough investigation has been made by the Department and the participant has been given an opportunity for a hearing.

Agr 468 Terminology and classification; general.

(a) The official classification terms defined in Regulations Agr 469 and Agr 470 and the various designs illustrative of the official classifications may be used only by those who are participating in the Plan with both the Department and the Board and to describe products that have met all the specific requirements of such classifications.

(b) Products produced under the Plan shall lose their identity under Plan terminology when they are purchased for resale by, or consigned to nonparticipants.

(c) Participating flocks and the eggs and ~~chicks~~ poultry produced from them may be designated by their strain or trade name. When a breeder's name or strain designation is used, the participant shall be able by records to substantiate that the products so designated are from flocks that are composed of either (1) birds hatched from eggs produced under the direct supervision of the breeder of such strain or (2) stock multiplied by persons designated and so reported by the breeder to each Official State Agency concerned.

~~(d)--Domesticated waterfowl, game birds, and guineas meeting the requirements for participation for any of the classifications specified in Section C-13 may be designated as coming within such classification.~~

Agr 469 Terminology and classification; hatcheries and dealers.
Participating hatcheries and dealers shall be designated as "Minnesota National Plan Hatchery" and "Minnesota National Plan Dealer" respectively.
Each participating hatchery or dealer may be assigned a permanent approval number by the USDA. This number may appear on each invoice and shipping label for each separate sale of products. The approval number shall be withdrawn when the hatchery or dealer no longer qualifies for participation in the Plan.

Agr 470 Terminology and classification; flocks and products.

Participating flocks and the eggs and poultry produced from them, which have met the respective requirements specified in this section may be designated by the following terms or their illustrative designs.

(a) Minnesota - U.S. Approved. All males and females selected by Authorized Agents according to standards prescribed by the Department and the Department of ~~Poultry Husbandry,~~ Animal Science, University of Minnesota Institute of Agriculture and such standards are approved by the USDA. ~~Males and females shall not be used in Minnesota U.S. Approved flocks, if they are showing any of the following conditions:~~

~~1.--Physical deformities such as, crooked back, wry tail, crooked beak, extremely crooked breast bone, or toes, or other serious deformity.~~

~~2.--Evidence of any disease, for example, mis shapen pupil or deformed legs indicative of leukosis.~~

(b) (c) (d) (e) - Delete.

Agr 471 ~~U.S.R.O.P.---General~~ - Delete and add the following:

Agr 471 Fees and Charges. The fees for inspection and supervision, and charges for supplies to be paid to the Department in connection with participation in the Plan shall be as follows:

(a) Annual minimum fees:

Hatcheries	$15.00
Dealers	$15.00
Independent flocks	$ 5.00
~~Affiliated flocks---------0.70~~	

The annual minimum fee for hatcheries, dealers and independent flocks shall be paid at the time the agreement for participation is submitted to the Department. ~~Affiliated flock fees shall be paid on or before June 30 of each operating year.~~

(b) Capacity fees:

$0.50 per 1000 egg capacity actually used, including incubators and hatchers to 200,000 capacity.
$0.25 per 1000 egg capacity actually used, including incubators and hatchers, for that capacity in excess of 200,000 egg capacity. Provided that, the annual minimum hatchery fee shall be deducted from the capacity fee in the final accounting for the operating year. The capacity fee shall be paid to the Department on or before June 30 of each operating year.

(c) Identification bands. ~~dye and labels,~~

Aluminum Leg Bands	$8.00 per 1000 bands.
~~Approved Dye~~	~~$8.00 per 1000 birds in participating flocks.~~
~~Official Labels~~	~~$14.00 per 1000 labels.~~

<u>When dye is used in lieu of bands to identify birds in supply flocks, the fee shall be $8.00 per 1000 birds retained in such flocks.</u>

~~(d) Record of Performance.~~

~~1. For breeders trapping candidates $100.00 minimum, plus $0.17 per bird, for each bird in excess of 300 birds, with a maximum of $200.00.~~

~~2. For breeders with single male R.O.P. pens only, $50.00 minimum and $5.00 per pen for each pen in excess of 10 pens.~~

(d) ~~(e)~~ The participant shall furnish transportation or reimburse the State for transportation for the State Inspector on flock inspection work.

~~Agr 472 U.S. ROP; Qualification of Females~~ Delete
~~Agr 473 U.S. ROP; Qualification of males~~ - Delete
~~Agr 474 U.S. ROP; Sale of Products~~ - Delete
~~Agr 475 U.S. ROP; Annual Summary~~ - Delete
~~Agr 476 U.S. ROP; Duties of ROP Supervisor~~ - Delete
~~Agr 477 U.S. ROP; Duties of ROP Inspector~~ - Delete
~~Agr 478 U.S. Performance Tested Parent Stock; General~~ - Delete
~~Agr 479 U.S. Performance Tested Parent Stock; Entry~~ - Delete
~~Agr 480 U.S. Performance Tested Parent Stock; Qualification~~ - Delete
~~Agr 481 U.S. Performance Tested Parent Stock; Sale of Products~~ - Delete
~~Agr 482 U.S. Performance Tested Parent Stock; Annual Summary~~ - Delete
~~Agr 483 Central Random Sample Egg Production Test~~ - Delete
~~Agr 484 Multiple Unit Random Sample Egg Production Test~~ - Delete
~~Agr 485 Central Random Sample Meat Production Test~~ - Delete
~~Agr 486 Fees and Charges~~ - Delete

Agr 472-496 Reserved for future use.

~~PART T---NATIONAL TURKEY IMPROVEMENT PLAN--~~

Agr 497 through Agr 526 - Delete

Agr 497-542 - Reserved for future use

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the Minnesota Department of Agriculture Governing the Minnesota National Poultry and Turkey Improvement Plans, AGR 458 through AGR 542

CERTIFICATE

I hereby certify that the attached 270 labels & 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 1:30 o'clock P.M., this 17th day of July, 1973 have requested pursuant to M.S. 1971, Sec. 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Arlen I. Erdahl

By Ceil Dorn

AFFIDAVIT

Frances T. Cufer, being duly sworn on oath deposes and says:

1) That she is an employee of the Department of Agriculture of the State of Minnesota.

2) That on the 17th day of July 1973, she went to the Secretary of State's office for the State of Minnesota and requested a current list and 270 labels of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 17th day of July 1973, in response to the above request, the Secretary of State provided her with such a list and labels, a copy of the list is attached hereto and incorporated by reference.

Further affiant sayeth not.

Frances T. Cufer

Subscribed and sworn to
before me this 23rd day
of July 1973.

Emma Copeland
Notary Public,

Ramsey County, Minnesota

My Commission expires 3-17-77.

EMMA COPELAND
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 17, 1977

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the Minnesota Department of Agriculture Governing the Minnesota National Poultry and Turkey Improvement Plans AGR 458 through AGR 542

AFFIDAVIT OF MAILING

Frances T. Cufer, being first duly sworn, deposes and says:

That on the 23rd day of July, 1973, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Frances T. Cufer

Frances T. Cufer

Subscribed and sworn to before me this 23rd day of July 1973.

Emma Copeland

EMMA COPELAND
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 17, 1977

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments to the Regulations of the Minnesota Department of Agriculture relating to the National Poultry and Turkey Improvement Plan, Agr 458 - 542

FINDINGS OF FACT

The above-entitled matter came on for a hearing before the Commissioner of Agriculture of the State of Minnesota on the 12th day of September, 1973, at 2:00 P.M. in Room B of the Veteran's Service Building, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. The National Poultry and Turkey Improvement Plan Conference held in Denver, Colorado July 10, 11 and 12, 1972 recommended deletion of several breeding classifications from the Plans including U.S. R.O.P., U.S. Performance Tested, U.S. Certified and U.S. Approved for turkeys. The recommendations of the conference were approved by U.S.D.A. It is therefore necessary to amend the Minnesota regulations relating to this program to make them compatible with the National Plan by deleting the above mentioned breeding classifications.

2. Since there no longer are any breeding classifications relating to the turkey phase of the program, all references to turkeys were deleted from the regulations. The turkey disease control phase will be continued by the Minnesota Livestock Sanitary Board.

3. A number of definitions were added to clarify the regulations and to provide for the inclusion of game birds and waterfowl under the word, "poultry".

4. The remainder of the changes are of an editorial nature to simplify the regulations and delete wording no longer considered necessary.

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

Jon Wefald
_____ COMMISSIONER

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments to the Regulations of the Minnesota Department of Agriculture relating to the National Poultry Improvement Plan and National Turkey Improvement Plan, Agr 458 - 542

ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Commissioner of Agriculture of the State of Minnesota on the 12th day of September, 1973, at 2:00 P.M., in Room B, Veterans Service Building, St. Paul, Minnesota, after proper notice required by M.S.1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules

NOW, THEREFORE, IT IS ORDERED that these rules identified as relating to the National Poultry Improvement Plan and National Turkey Improvement Plan are adopted this 11th day of October, 1973, pursuant to authority vested in me by M.S.1971, Section 29.021.

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

Jon Wefald
_____ COMMISSIONER