

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

44

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 81 thru 86 (new)

Subject: Marketing + Bargaining Act

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

APR 9 1974 2:30 pm

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 4-9-74

Rev. 9-72

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD,

COMMISSIONER OF AGRICULTURE,

STATE OF MINNESOTA.

IN THE MATTER OF:

The Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, providing for the Administration thereof.

ORDER TO AMEND TYPOGRAPHICAL ERROR IN AGR 85

The above entitle matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 17th day of January, 1974, at 10 A.M. in conference room D, fifth floor, Veterans Service Building, St. Paul, Minnesota. Pursuant to proper statutory authority these rules, identified as Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973 were adopted finally and filed with the Office of the Secretary of State and the Commissioner of Administration on April 9, 1974. It has since been brought to my attention that one of these Rules, AGR 85 contains a typographical error.

NOW, THEREFORE, IT IS ORDERED that the typographical error in AGR 85 be corrected and that said rule be amended to read as was originally intended:

"AGR 85

PETITION FOR SUPERVISION, PROCEDURE. Upon being petitioned to assume supervision of a dispute under M. S. 17.697, Subdivision 3, the Commissioner shall either turn the matter over to State Mediation Service or he shall act as mediator himself. Where the Commissioner acts as a mediator, he shall call a conference to take testimony and shall consider all evidence presented. Within 10 days of the completion of the conference on said dispute, the Commissioner shall issue to each party in writing, a suggested settlement of the dispute."

DATED: April 29, 1974

Jon Wefald
Commissioner of Agriculture
State of Minnesota

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 30 1974 - 3:30 pm
Arlen I. Erdahl
Secretary of State

RULES AND REGULATIONS RELATING TO
THE ADMINISTRATION OF THE AGRICULTURAL
MARKETING AND BARGAINING ACT OF 1973.

Department of Agriculture Regulations, Chapter 3, Agr 81-100

Agr 81 - Definitions.

The following terms have the meaning given to them:

(a) Board. "Board" means the body consisting of three Department of Agriculture employees designated by the Commissioner to assist the Commissioner in administering Minnesota Statutes Sections 17.691 to 17.701 and regulations adopted thereunder.

(b) Agricultural Commodity. "Agricultural Commodity" includes all agricultural goods produced by associations for marketing individually or collectively under contract with handlers and consists of any materials produced for but not limited to use in or as food, feed, seed, or fiber and includes but is not limited to crops for fiber, food, oil seeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

(c) Marketing Year. "Marketing Year" means, generally, any time between the second day of February of the previous calendar year and the first day of February of the subsequent year, unless the Commissioner, persuant to Regulation Agr 84, determines an alternative time period for a specific agricultural commodity to be designated as its marketing year.

Agr 82

Producer-Handler, Value Limitations. A producer who markets agricultural commodities produced by other producers shall be classed as a handler only when the value of the agricultural commodity which he obtains from other producers exceeds $25,000 in any marketing year.

Agr 83

Accreditation Requests; Processing Fees. At the time an association requests accreditation by the Commissioner for bargaining purposes such request shall be accompanied by a fee of $100. The Commissioner shall determine actual costs connected with such accreditation including hourly wage, travel and subsistence, search for information, correspondence, and any other expense incurred during the accreditation and shall deduct the total from the accreditation fee. If there is a residue, it shall be returned to the association and if the fee fails to cover the expense of the Commissioner for accreditation, he shall bill the association which shall pay said additional fee as billed before final accreditation.

Agr 84

Alternate Marketing Year, Determination. If either the association or the handler requests that an alternative time period for a specific agricultural commodity be designated as its marketing year, the Commissioner shall call for a hearing on 10 days written notice to both the handler and the association, shall hear all the testimony, and if the Commissioner determines that an alternate marketing year is justified, he shall so notify both the association and the handler. However, any requests for an alternative marketing year must be presented to the Commissioner at least 90 days before the presently existing start of the marketing year in question.

Agr 85

Petition for Supervision, Procedure. Upon being petitioned to assume supervision of a dispute under M.S. 17.697, Subdivision 3, the Commissioner shall either turn the matter over to State Mediation Service or he shall act as mediator himself. Where the Commissioner acts as a mediator, he shall call a conference to take testimony and shall consider all evidence pre-

presented. Within 10 days of the completion of the conference on said dispute, the Commissioner shall issue to each party in writing, a suggested settlement of the dispute.

Agr 86

Petition for Supervision, Late Application. When a petition requesting the Commissioner to assume supervision over a dispute between an association and a handler is presented 15 days or less before the marketing year in dispute, the Commissioner may refuse to provide supervision. In determining whether he shall provide supervision over the dispute the Commissioner may consider any factors he deems relevant, including, but not limited to: (1) The wishes of the disputing parties, (2) The nature of the dispute, (3) The availability of State Mediation Services.

Agr 87 - 100 Reserved for future use.

Filed

APPROVED AS TO FORM AND LEGALITY
4-9 19 74
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 9 - 1974 1:30 pm
Arlen I. Erdahl
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 9 1974 2:20 pm
BY Ida Staudenmaier
AUTH. SIGNATURE

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: March 22, 1974

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

ORDER OF HEARING

To effectively implement the Administration of the Marketing and Bargaining Act of 1973, the Commissioner of Agriculture deems it necessary to consider adoption of the proposed rules captioned above pursuant to authority vested in me by Laws 1973, Chapter 736, Section 11 and M.S. 1971, section 15.0412.

NOW, THEREFORE, IT IS ORDERED this 13th day of December, 1973, that a public hearing on the proposed rules captioned above to be held in Conference Room D, 5th Floor, Veterans Service Building, St. Paul, Minnesota, on Thursday, January 17, 1974, commencing at 10 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that 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 to 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 the Proposed Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules of the Minnesota Department of Agriculture.

The need to adopt these rules arises because of legislative mandate.

STATE OF MINNESOTA

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M. S. 1971, Section 15.0412, Subdivision 4, in the above entitled matter in Conference Room D, 5th Floor, Veterans Service Building, St. Paul, Minnesota, January 17, 1974, commencing at 10 A.M., and continuing until all persons have had an opportunity to be heard concerning 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.

The commissioner proposes to adopt rules relating to definitions, contracts, alternative marketing years, fees for accreditation, rules for referendums, revocation of accreditation, procedures for application and notice to members and nonmembers and similar matters relating to administration of the act as required therein.

Copies of the proposed rules may be obtained by writing to the office of the Commissioner, 420 State Office Building, St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing.

Dated December 13, 1973

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

PROPOSED
RULES AND REGULATIONS RELATING TO
THE ADMINISTRATION OF THE AGRICULTURAL
MARKETING AND BARGAINING ACT OF 1973.

Department of Agriculture Regulations, Chapter 3, Agr 81-100

Agr 81 - Definitions.

The following terms have the meaning given to them:

(a) Board. "Board" means the body consisting of three Department of Agriculture employees designated by the Commissioner to assist the Commissioner in administering Minnesota Statutes Sections 17.691 to 17.701 and regulations adopted thereunder.

(b) Agricultural Commodity. "Agricultural Commodity" includes all agricultural goods produced by associations for marketing individually or collectively under contract with handlers and consists of any materials produced for but not limited to use in or as food, feed, seed, or fiber and includes but is not limited to crops for fiber, food, oil seeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

(c) Marketing Year. "Marketing Year" means, generally, any time between the second day of February of the previous calendar year and the first day of February of the subsequent year, unless the Commissioner, persuant to Regulation Agr 85, determines an alternative time period for a specific agricultural commodity to be designated as its marketing year.

Agr 82

Producer-Handler, Value Limitations. A producer who markets agricultural commodities produced by other producers shall be classed as a handler only when the value of the agricultural commodity which he obtains from other producers exceeds $25,000 in any marketing year.

Agr 83

Accreditation Requests; Processing Fees. At the time an association requests accreditation by the Commissioner for bargaining purposes such request shall be accompanied by a fee of $100. The Commissioner shall determine actual costs connected with such accreditation including hourly wage, travel and subsistence, search for information, correspondence, and any other expense incurred during the accreditation and shall deduct the total from the accreditation fee. If there is a residue, it shall be returned to the association and if the fee fails to cover the expense of the Commissioner for accreditation, he shall bill the association which shall pay said additional fee as billed before final accreditation.

Agr 84

State Mediation Service; Request for. An Association or a handler may request the Commissioner to engage the State Bureau of Mediation Services to assist the Commissioner in bargaining and mediation services and if such services are secured, the association or handler requesting the service shall be liable for the per diem set for the bureau mediator by M.S. 179.02, and the travel and other expense allowed the mediator and his staff by M.S. 179.04.

Agr 85

Alternate Marketing Year, Determination. If either the association or the handler requests that an alternative time period for a specific agricultural commodity be designated as its marketing year, the Commissioner shall call for a hearing on 10 days written notice to both the handler and the association, shall hear all the testimony, and if the Commissioner determines that an alternate marketing year is justified, he shall so notify both the association and the handler.

Agr 86

Petition for Supervision, Procedure. Upon being petitioned to assume supervision of a dispute under M.S. 17.697, Subdivision 3, the Commissioner shall call a conference to take testimony and shall consider all evidence presented. Within 10 days of the completion of the conference on said dispute, the Commissioner shall issue in writing a suggested settlement, If the parties to the dispute still do not reach a settlement, they may request further mediation in accordance with Regulation Agr 84.

Agr 87

Petition for Supervision, Late Application. When a petition requesting the Commissioner to assume supervision over a dispute between an association and a handler is presented 15 days or less before the marketing year in dispute, the Commissioner may refuse to provide supervision or he may provide supervision if both parties agree in accordance with Regulation 85 to an alternate marketing year.

Agr 88 - 100 Reserved for future use.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

CERTIFICATE

I hereby certify that the attached 319 labels & 2 sheets constitute the complete lists of persons, associations, and other interested groups who as of 3:45 o'clock p.m., this 12th day of [redacted] Dec., 1973, have requested pursuant to M.S. 1971, Sec 15.0421 that their names by 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 Neil Dion

AFFIDAVIT

Joyce Walkosz, being duly sworn on oath deposes and says:

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

2) That on the 12th day of December, she went to the Secretary of State's office for the State of Minnesota and requested a current list 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 12th day of December, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Joyce Walkosz

subscribed and sworn to
before me this 17th day
December 1973.
Emma Copeland

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 State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

AFFIDAVIT OF MAILING

Joyce Walkosz, being first duly sworn, deposes and says:

That on the 13th day of Dec., 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 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.

Joyce Walkosz

Subscribed and sworn to before me

this 17th day of Dec, 1973

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 Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Minnesota Department of Agriculture on the 17th day of January, 1974, at 10:00 A.M. in Room D of the Veterans Service Building, St. Paul, Minnesota, after proper notice required by Minnesota Statutes, 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. That the Legislature in passing the Agricultural Marketing and Bargaining Act of 1973 requested the Minnesota Department of Agriculture to enact rules dealing with the administration of the law.

2. That the Legislature required that a fee be established and that the fee cover the expense of accreditation rather than being a set amount.

3. That the State Mediation Service will not charge a fee for mediation services requested by the Department and therefore that the Department should not charge for these services.

4. That unnecessary harm and/or prejudice may result if a determination of an alternate bargaining year is made less than 90 days before the start of the bargaining year in question.

5. That the law gives the Commissioner the discretion to refuse to supervise disputes presented to him less than 15 days before the start of the marketing year.

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 the Proposed Adoption of Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, Providing for the Administration thereof.

ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 17th day of January, 1974, at 10:00 A.M. in Conference Room D, fifth floor, 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, and to all members of the Minnesota Legislature.

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 and criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified as Rules of the State Department of Agriculture Relating to the Agricultural Marketing and Bargaining Act of 1973, are adopted this 22 day of March, 1974, pursuant to authority vested in me by M.S. 1971, Section 14.0412 and Laws of Minnesota 1973, Chapter 736, Section 11 (Precoded M.S. 17.701).

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE