

1572.0020 MEDIATION AND ARBITRATION.

Subpart 1. **Procedure.** If mediation or arbitration services are requested, the commissioner may refer the parties to outside mediation or arbitration services or conduct the services within the department of agriculture. Mediation and arbitration activities of the commissioner must be conducted according to the Uniform Arbitration Act in Minnesota Statutes, sections 572.08 to 572.30, and the Minnesota Civil Mediation Act in Minnesota Statutes, sections 572.31 to 572.40.

Mediation or arbitration services provided by the commissioner under this part must be provided according to the terms of the contract between the parties. In addition, the commissioner shall require the providers of any outside mediation or arbitration services to which the commissioner refers the parties to conduct arbitration or mediation proceedings according to the terms of the contract between the parties.

Subp. 2. **Limitations.** The commissioner may not accept a request under subpart 1 if the contract governing the dispute between the parties contains an arbitration or mediation clause, and if:

A. mediation or arbitration procedures have started before a mediator or arbitrator who has been appointed in accordance with the contract or who otherwise is agreeable to the parties; or

B. whether or not mediation or arbitration has started, the arbitration or mediation clause or terms adopted under it contains a mechanism for designating a mediator or arbitrator the parties are legally obligated to use under the Uniform Arbitration Act or the Minnesota Civil Mediation Act, whichever is appropriate.

Subp. 3. **No review.** The commissioner shall not review decisions made under a mediation or arbitration proceeding between a contractor and a producer, or otherwise provide services under subpart 1 relative to a matter that was disputed in the arbitration or mediation proceedings.

Subp. 4. **Findings.** The findings and order of an arbitrator under this part are prima facie evidence of the matters contained in them.

Subp. 5. **Seed.** If arbitration is required in a contract for seed, as defined in Minnesota Statutes, section 21.81, subdivisions 3, 8, and 32, the arbitration procedure in items A to C applies.

A. A notice in the following form, or equivalent language must be part of a seed contract:

"Arbitration is required as a precondition of maintaining certain legal actions, counterclaims, or defenses against a seller of seed for damages for the failure of seed for planting to produce or perform as represented by a seed tag or label."

B. The commissioner shall appoint an arbitration council composed of five members and five alternate members. One member and one alternate must be appointed upon the recommendation of each of the following:

- (1) the dean and director of the College of Agriculture, University of Minnesota;
- (2) the director of the Minnesota Agricultural Experiment Station;
- (3) the president of the Minnesota Crop Improvement Association;
- (4) the president of a farm organization designated by the commissioner; and
- (5) the commissioner.

An alternate member may serve only in the absence of the member for whom the person is an alternate.

The council shall select a chair and a secretary from its membership. The chair shall conduct meetings and deliberations of the council and direct all of its other activities. The secretary shall keep accurate records of all meetings and deliberations and perform other duties for the council as the chair may direct.

The purpose of the council is to conduct arbitration as provided in this part. The council may be called into session by or at the direction of the commissioner or upon direction of its chair to consider matters referred to it by the commissioner or the chair in accordance with this part.

C. Procedures:

(1) A buyer may invoke arbitration by filing a sworn complaint with the commissioner. The buyer shall serve a copy of the complaint upon the seller by certified mail. Except in case of seed that has not been planted, the claims must be filed within a time that permits effective inspection of the plants under field conditions.

(2) Within 15 days after receipt of a copy of the complaint, the seller shall file with the commissioner an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(3) The commissioner shall refer the complaint and answer to the council for investigation, findings, and recommendations.

(4) Upon referral of a complaint for investigation the council shall make a prompt and full investigation of the matters complained of and report its findings and recommendations to the commissioner within 60 days of the referral or a later date as the parties may determine.

(5) The report of the council must include findings of fact and recommendations as to costs, if any.

(6) In the course of its investigation, the council or any of its members may examine the buyer and the seller on all matters the council considers relevant; may grow to production a representative sample of the seed through the facilities of the commissioner or a designated university under the commissioner's supervision if considered necessary; and may hold informal hearings at a time and place the council chair may direct upon a reasonable notice to all parties.

(7) The council may delegate all or any part of an investigation to one or more of its members. Any delegated investigation must be summarized in writing and considered by the council in its report.

(8) After the council has made its report, the commissioner shall promptly transmit the report by certified mail to all the parties.

(9) All expenses of the arbitration, including required travel and other expenses of the council, must be borne equally by the parties, unless the council, in the award, assesses the expenses or any part of them against a specified party or parties.

Subp. 6. **Clause required.** Contract mediation or arbitration clauses are required in contracts signed by Minnesota producers.

Subp. 7. **Sample copies of contracts.** A contractor using a written commodity contract must submit to the commissioner a sample copy of each contract offered to producers. Schedules of prices and charges need not be included. Contract samples must be submitted to the commissioner and made available to producers at least 30 days before the contract crops are planted or the contract livestock is placed in the producer's facility.

Subp. 8. **Effective date.** Minnesota Statutes, section 17.91, applies only to contracts signed after August 1, 1990.

Statutory Authority: *MS s 17.945*

History: *15 SR 1924*

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