

CHAPTER 1500
DEPARTMENT OF AGRICULTURE
WHOLESALE PRODUCE DEALERS

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1500.0100 IDENTIFICATION CARDS.

To safeguard the public and acquaint producers with the fact that those soliciting farm produce from farm to farm or place to place within the state of Minnesota are working as agents for a licensed dealer, the principal shall be required to secure identification cards for such agents from the commissioner of agriculture.

Statutory Authority: *MS s 27.14*

1500.0200 TRUCK PLATES.

A truck driver dealing in farm produce at wholesale, buying and selling and traveling from place to place, shall be required to secure a truck plate in addition to a wholesale produce dealer's license, and this plate shall be attached in a conspicuous place on his truck.

Statutory Authority: *MS s 27.14*

1500.0300 LICENSES.

Licenses and duplicate licenses must be posted in a conspicuous place, plainly visible to the public in the office or place of business operated by the licensed dealer. The identification card of the agent operating as a wholesale buyer shall at all times be carried on the person of the agent. No licensed dealer shall appoint, delegate, or authorize any person, firm, or company to purchase farm produce unless a copy of original license, identification card, or license truck plate has been issued at the request of the licensee to such person, firm, or company acting as his buyer or agent. The request for copies of original license, identification card, or wholesale truck plate must be made to the commissioner of agriculture in writing accompanied by the prescribed fee. The licensed dealer shall at all times be responsible for the acts, contracts, or agreements made by his agent or agents in the purchase or sale of farm produce.

Statutory Authority: *MS s 27.14*

1500.0400 FEES.

The fee for a license is \$12.50 and for a duplicate license, identification card, or truck plate, \$1 each.

Statutory Authority: *MS s 27.14*

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1500.0500 PAYMENT.

Whenever produce has been sold to any dealer on open account, the buyer shall pay for the said produce within seven days from delivery thereof unless an agreement for extension of credit has been made between the seller and the purchaser.

Statutory Authority: *MS s 27.14*

1500.0600 CONSIGNMENT CONTRACTS.

Whenever a consignor having consigned farm produce to a wholesale dealer does not receive written report advising the time of arrival, quantity, quality, and price per unit of the produce within a reasonable time, or in the case of an outright sale, does not receive payment thereof within seven days from the time of delivery, or in case the said produce is rejected without an inspection, or the buyer disputes the quality of the produce without substantiating the same with an inspection by the commissioner of agriculture, or for any other reason contrary to the provisions of the wholesale dealer's act, a complaint should be filed with the commissioner of agriculture in the form of an affidavit duly signed and sworn to before a notary public setting forth the facts in the particular case; and this should be substantiated by correspondence, shipping bill, account sales, etc.

Statutory Authority: *MS s 27.14*

1500.0700 RECEIPT OF COMPLAINT.

Upon receipt of complaint, the commissioner may proceed to investigate, and shall report his findings to both the complainant and to the respondent.

Statutory Authority: *MS s 27.14*

1500.0800 DISAGREEMENTS IN TRADE.

It is well to bear in mind the fact that most of the disagreements in trade result from loose bargain agreements and lack of definite written contracts which set forth the terms and weight, grade, quality, and condition of the produce purchased.

Statutory Authority: *MS s 27.14*

1500.0900 ACCEPTANCE.

Whenever a contract is entered into for the purchase of a car or L.C.L. lot of farm produce, and the consignor ships or delivers the produce to the buyer, the buyer shall accept it according to the original contract made between the seller and the purchaser, or according to declared number, weight, and grade announced by the seller in any form such as tags, stamps, labels, invoice, letter, or declaration, unless an inspection is called for and made by the commissioner of agriculture for the purpose of determining whether or not the produce is of the grade specified in the contract or declaration.

Statutory Authority: *MS s 27.14*

1500.1000 INSPECTION.

Unless inspection is waived and a satisfactory settlement is made between the two contracting parties, it shall be the duty of the purchaser in each instance to secure inspection before refusing to accept; and after the inspection has been secured, the adjustment shall be determined on the findings in the certificate issued by the commissioner.

Statutory Authority: *MS s 27.14*

1500.1100 SOLICITATION WITHOUT CONTRACT.

Whenever produce is solicited in any form such as through advertisements, mailing cards, or quotations, or in any other manner, and where there is not a definite contract between the seller and purchaser, the ruling with reference to acceptance and inspection in parts 1500.0900 and 1500.1000 shall govern.

Statutory Authority: *MS s 27.14*

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1500.1200 CONTROVERSY ON SHIPMENTS.

In all cases where there is a controversy over grade, weight, or any other reason in connection with the shipment, and an authorized inspector representing the commissioner of agriculture finds the grade, quality, and condition not up to specifications of the contract or declaration, it shall be permissible for the purchaser to deduct the charge for inspection cost from the final adjustment or settlement with the consignor, but the applicant in all instances shall be responsible to the commissioner of agriculture for the payment of all inspection fees incurred in making inspections of farm produce.

Statutory Authority: *MS s 27.14*

1500.1300 LABELING.

No dealer shall tag, stamp, or label farm produce indicating a variety, count, or standard of quality of either state or federal grade or a brand unless the produce so tagged meets all of the requirements of such declaration or grades.

Statutory Authority: *MS s 27.14*

1500.1400 BOND.

The bond executed and filed with the commissioner of agriculture in the name of the state of Minnesota requires that the principal or licensed dealer shall live up to his contracts and obey the laws covering wholesale dealers and all the rules laid down by the commissioner.

Statutory Authority: *MS s 27.14*

1500.1500 COMPLAINT.

In order to be protected by the bond of a licensee, complaints against such licensee must reach the commissioner of agriculture in the manner set forth below within 30 days from the due date period. Complaint should be in writing, setting forth all the facts complained of in connection with the transaction.

Statutory Authority: *MS s 27.14*

1500.1600 NOTIFICATION OF BREACH.

Where a licensee does not live up to the terms of his contract and pay the purchase price of produce as agreed upon within the due date and the seller voluntarily extends credit beyond the due date, no recovery can be had on the bond of the licensee. This means, as stated above, that in order to be protected by the bond, you must notify the commissioner of the breach of contract within 30 days from the due date period.

Statutory Authority: *MS s 27.14*

1500.1700 DUE DATE.

The term "due date" means seven days from the date of delivery by the seller to the licensee in the case of a straight sale. In all cases where produce is consigned, it means seven days from the date the sale is made by the broker or handler, except as to creameries, where the due date means 15 days following the monthly day of accounting subsequent to deliveries following the date fixed by each creamery for such accounting.

Statutory Authority: *MS s 27.14*

1500.1800 CONFIRMATION OF PRODUCE SALES CONTRACT.

Whenever a contract is entered into between the purchaser and the seller or his agent for the purchase of farm produce and a confirmation is submitted by either the seller or his agent, unless the purchaser refuses to accept the confirmation by promptly notifying the seller or his agent to the effect that the confirmation is not in accordance with the contract, by personal notification or wire, the said confirmation shall be considered binding.

Statutory Authority: *MS s 27.14*

1500.1900 CONFISCATION.

Whenever any person doing business or attempting to do business as a dealer at wholesale in farm produce without a license and bond, shall cause others to ship or deliver produce to him as therein defined, the commissioner shall have power to seize such produce, whether delivered or enroute for delivery, and hold the same under seal of the Department of Agriculture, in behalf of and subject to the orders of the shipper, except that the said commissioner shall not release on order of the shipper or otherwise, any produce whatsoever to the unlicensed consignee until his status under the law shall have been determined.

Statutory Authority: *MS s 27.14*

1500.2000 INSPECTION.

When the conditions of any shipment so seized shall be deemed to be such as to demand immediate disposal in order to prevent material loss to the shipper, and the shipper cannot be located or does not reply promptly to notification of the commissioner, the commissioner shall order an inspection to be made as to the amount, quality, and condition of produce so shipped, and a copy of such inspection shall be held for the information of the shipper.

Statutory Authority: *MS s 27.14*

1500.2100 ESCROW IN BEHALF OF SHIPPER.

The produce shall then be delivered by order of the commissioner to a licensed dealer at wholesale who shall sell the same for the account of the shipper, returning the proceeds of said sale, less the expense incurred thereof, to the commissioner to be held in escrow by him in behalf of the shipper. Said moneys so received and accounted for shall be delivered to the shipper upon demand and proof of ownership.

Statutory Authority: *MS s 27.14*

1500.2200 FRESH, FROZEN, AND SALT HERRING.

Subpart 1. Packing boxes. Fresh fish shall be packed in boxes of 50 pound and 100 pound weights with not less than five percent extra weight for shrinkage and inspection. The boxes shall be of the following dimensions and construction: for 50 pounds of fish the inside measurements shall be 23 inches long, 14 inches wide, and ten inches high; the ends cleated outside and without extended handles. For 100 pounds of fish the inside measurements shall be 27 inches long, 17 inches wide, and 12 inches high, and have extended handles. In the case of frozen fish, 85 pounds of such fish can be marketed in the 100 pound standard box. Boxes for 100 pounds of frozen fish shall have inside measurements 27 inches long, 17 inches wide, and 14 inches high; the end cleated outside and without extended handles.

Subp. 2. Construction of fish boxes. All fish boxes shall be constructed of planed surface lumber. Cedar wood shall not be used in whole or in part in the construction of fish boxes.

Subp. 3. Quality of fish to be sold. Only fish which are fresh, firm, free of blood clots and unnecessary punctures shall be sold. "Fresh" means that the fish have firm, elastic flesh that does not pit readily on pressure, that they have a sweet, wholesome odor and their gills have their characteristic red color, that their eyes be full, prominent, and bright and that the scales have their characteristic bright sheen. Fish shall be dressed in a careful manner by slitting down the belly with a straight, clean cut and be scraped clean of all blood and entrails.

Subp. 4. Ice. Fish shall be placed lengthwise in the box and be well iced when packed for shipment. Ice shall be placed on the bottom of the box and on top of the fish. In warm weather the ice shall be taken in boats so that fish can be iced immediately after removal from nets.

Subp. 5. Packing salted herring. Salted herring shall be packed 110 pounds

net of well cured fish to the keg and shall be salted at point of production only. Herring shall be tightly packed with a circular pack and contain not less than 35 pounds of salt per keg except herring packed from October 1st to April 1st shall contain not less than 30 pounds of salt per keg. All herring used for salting purposes shall consist of fresh fish and shall be properly cut, properly cleaned, and washed free of blood and loose scales before curing. "Fresh" means fish that meet the requirements of the definition above. "Properly cut" means that the head and gills shall be completely removed and that the fish be cut down alongside the backbone. "Properly cleaned" means that the cut fish shall be free of any gut, milt, or roe and free of loose scales.

Subp. 6. Fish to be frozen for human consumption. Only fish meeting the requirements of fresh herring as defined above shall be frozen and entered into the channels of trade for human consumption.

Subp. 7. Labeling. All boxes containing either fresh or frozen herring and all kegs of salted herring shall bear a label giving the following information: name and address of producer; commercial fishing license number of producer; and statement of net weight.

Subp. 8. Inspection and grading. All herring, whether fresh, frozen, or salted, produced by fishermen living in the state of Minnesota shall be inspected and graded by an authorized grader of the Department of Agriculture, when same are entered into the channels of trade.

Subp. 9. Inspection certificate. Boxes, kegs, and packages of fresh, frozen, or salted fish that pass inspection shall be tagged with an inspection certificate showing the date of inspection of the fish contained therein, which certificate shall be retained on said box, keg, or package until contents thereof have been completely removed therefrom.

Statutory Authority: *MS s 27.14*

1500.2300 REJECTION OF PRODUCE SHIPMENTS.

No dealer at wholesale shall reject on arrival any carload or less than carload of fruits and vegetables which has been ordered by said dealer from a broker, shipper, or any other dealer, without first obtaining a state inspection by an authorized state inspector to substantiate his claim for rejecting such a shipment of fruits and vegetables.

Statutory Authority: *MS s 27.14*

1500.2400 REJECTION OF CONFIRMATION OF SALE.

A dealer at wholesale shall have 24 hours in which to reject and return to a broker or shipper a written confirmation of sale that is not satisfactory to the purchaser. The rejected confirmation must be accompanied with a letter setting forth his reason for rejecting the confirmation of sale.

Statutory Authority: *MS s 27.14*

1500.2500 WRITTEN CONFIRMATION.

No broker shall make any sales of carloads or less than carloads of fruits and vegetables to any dealer without immediately issuing a written confirmation to said purchaser setting forth in said confirmation all details bearing upon the transaction. This written confirmation must be issued immediately on receipt of confirmation from seller to broker.

Statutory Authority: *MS s 27.14*

1500.2600 TRUCK PLATES.

All trucks used by licensee for the purpose of buying or selling produce shall bear a wholesale produce dealer's truck plate. This truck plate shall be posted on the top left-hand side of the front of the truck body. Truck plates are not transferable from one truck to another.

Statutory Authority: *MS s 27.14*

1500.2700 CHANGE OF AGENCY.

No person who is acting as an agent of a licensee may become an agent for another licensee handling the same products until such time as the agent has discontinued acting for and has surrendered his credentials to his original principal, and this principal has in writing notified the department of such change of agency.

Statutory Authority: *MS s 27.14*

1500.2800 DRAFT BOOKS FOR AGENTS.

No licensee shall request or cause to be issued a duplicate license or identification card to any person without furnishing that person with the check or draft book of the licensee, and such check or draft book shall be used by the agent in all purchases made for the principal unless payment is made direct to seller from the main office of the licensee.

Statutory Authority: *MS s 27.14*

1500.2900 EXEMPTION OF RETAILERS.

Whenever a retail merchant during the normal course of his business accepts, at his regularly established place of business, produce in exchange for merchandise, and/or cash, he is exempt from a wholesale produce dealer's license provided: that he does not advertise for produce by means of newspapers, direct mail, hand bills, billboards, theater notices, or radio; and that he does not solicit produce by means of window displays, signs, by posting prices, or by personal contact other than in his established place of business; and that he dispose of such produce to a duly licensed wholesale produce dealer.

Statutory Authority: *MS s 27.14*

1500.3000 IDENTIFICATION CARDS.

Whenever a licensee shall make application for and obtain a wholesale produce dealer's truck plate, and such licensee employs such agent to buy produce in the operation of such truck, the licensee shall, in addition to the truck plate, obtain for such agent an identification card.

Statutory Authority: *MS s 27.14*

1500.3100 INSPECTION CHARGES.

Whenever any person, firm, or corporation having produce desires to have it inspected, application shall be made to the commissioner for the services of an inspector or inspectors. Subsequent to the rendering of such inspection services by duly authorized and qualified inspectors, the commissioner shall bill the applicant monthly for the services rendered, according to the following schedule of rates: inspection of potatoes for grade, quality, and conditions; two cents per hundredweight; inspection for grade, quality, and condition of onions, cabbages, rutabagas, carrots, and all other commodities usually shipped 500 to 600-50 pound bags per car or truck or equivalents by weight in bushel baskets or other containers; 2-1/2 cents per hundredweight; \$3.60 per hour for any service on an hourly basis, charged from time of leaving headquarters to return, plus mileage at 7-1/2 cents per mile.

Statutory Authority: *MS s 27.14*

1500.3200 COPY OF CERTIFICATE OF INSPECTION.

When a financially interested party, other than the applicant, requests a copy of the certificate of inspection, a charge of \$1 shall be made for each copy so furnished.

Statutory Authority: *MS s 27.14*

MARKETING AND BARGAINING

1500.3300 DEFINITIONS.

Subpart 1. **Scope.** The following terms have the meaning given to them.

Subp. 2. **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.

Subp. 3. **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 rules adopted thereunder.

Subp. 4. **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, pursuant to part 1500.3600, determines an alternative time period for a specific agricultural commodity to be designated as its marketing year.

Statutory Authority: *MS s 17.701*

1500.3400 VALUE LIMITS FOR PRODUCER ACTING AS HANDLER.

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.

Statutory Authority: *MS s 17.701*

1500.3500 PROCESSING FEES FOR ACCREDITATION.

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.

Statutory Authority: *MS s 17.701*

1500.3600 ALTERNATE MARKETING YEAR.

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 ten 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.

Statutory Authority: *MS s 17.701*

1500.3700 DISPUTE SUPERVISION.

Upon being petitioned to assume supervision of a dispute under Minnesota Statutes, section 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 ten 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.

Statutory Authority: *MS s 17.701*

1500.3800 LATE APPLICATION FOR PETITION FOR SUPERVISION.

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: the wishes of the disputing parties; the nature of the dispute; the availability of state mediation services.

Statutory Authority: *MS s 17.701*