

Ag 1

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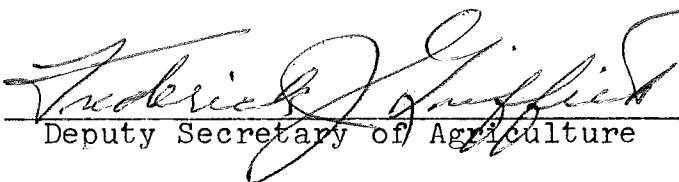
STATE OF WISCONSIN            )  
  ) SS  
DEPARTMENT OF AGRICULTURE )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Frederick J. Griffith, Deputy Secretary of Agriculture, and custodian of the official records of the State of Wisconsin Department of Agriculture, do hereby certify that the annexed order adopting rules relating to procedure and practice in contested cases, Wis. Adm. Code chapter Ag 1, was duly adopted by this department on November 13, 1972.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN WITNESS WHEREOF, I have hereunto set my hand at Madison, Wisconsin, this 13th day of November, 1972.

  
Deputy Secretary of Agriculture

Docket No. 1035

ORDER OF THE DEPARTMENT OF AGRICULTURE  
ADOPTING RULES

Pursuant to authority vested in the State of Wisconsin Department of Agriculture by sections 93.18(6), 227.02(1)(e), and 227.08 Wis. Stats., the State of Wisconsin Department of Agriculture hereby amends and adopts rules as follows:

1. Section Ag 1.01(8) of the Wis. Adm. Code is adopted to read:  
Ag 1.01(8) "Respondent" means the person named as a party in any contested case and against whom a department order may be issued in that proceeding.
2. Sections Ag 1.05(2) and (3) of the Wis. Adm. Code are amended to read:  
Ag 1.05(2) The examiner, at any time prior to the commencement of a hearing, may require the parties or their counsel to appear at a pre-hearing conference for the simplification of issues or consideration of other matters which may expedite or aid in the disposition of the proceeding, and issue such orders as necessary to carry out the aforestated purposes. All stipulations made at such conference shall be made a matter of record and control subsequent proceedings.
- (3) If any original document in a proceeding is lost or withheld by any person, or is otherwise unavailable, the examiner may authorize the filing or use of a copy in place of the original. The examiner may authorize the substitution of a copy of any original document received in evidence as an exhibit and return the original to the owner.

3. Section Ag 1.07 of the Wis. Adm. Code is amended to read:

Ag 1.07 Subpoenas. Any party may request the examiner to issue subpoenas to compel the attendance of witnesses (section 93.18(2), Wis. Stats.).

4. Sections Ag 1.16(1) and (2) of the Wis. Adm. Code are amended to read:

Ag 1.16 Depositions and discovery. (1) The examiner on application of any party may by issuance of a subpoena or other appropriate order authorize the taking of a deposition of a party or any other person for discovery or other purposes, in such manner and upon such terms and conditions as he may prescribe. Such subpoenas or orders may require the production of documents or physical evidence. Depositions may be taken orally or in writing, or upon written interrogatories. Depositions may be authorized only for the purpose of obtaining information or evidence not otherwise readily available without the taking of a deposition, or which is reasonably calculated to lead to the discovery of admissible evidence. The taking of a deposition may be denied if it will result in undue delay of the proceedings. Upon motion of any party, or at any time the examiner determines, a proponent of procedures authorized in this section may be required to show good cause that such procedures are not being used for purposes of delay or are not otherwise unnecessary or duplicative.

(2) On application of any party, the examiner may require any other party to disclose the names and addresses of witnesses who will testify at the hearing and to produce for inspection or copying any documentary or physical evidence to be used as evidence at the hearing.

5. Sections Ag 1.16(6), (7) and (8) of the Wis. Adm. Code are adopted to read:

Ag 1.16(6) Copies of all written interrogatories and cross interrogatories shall be submitted to the examiner. Each interrogatory shall be fully and completely answered in writing and under oath. Answers, including objections, if any, shall be submitted to the requesting party, with a copy to the examiner, within 10 days after service of the interrogatory, or such other period as the examiner may specify. The requesting party may move for an order overruling objections which are without merit and compelling an answer within such period of time as may be designated by the examiner.

(7) In lieu of or in addition to procedures under subsection (6), any party may serve upon any other party, with a copy to the examiner, a demand to admit or deny the genuineness of relevant documents or the existence or truthfulness of relevant facts. If the party upon whom demand is made fails or refuses to comply with the demand or file objections setting forth grounds for such objections within 10 days after service of the demand, the facts included in the demand shall be taken as true. Answers or objections shall be under oath. The party making the demand may move for an order overruling objections which are without merit, and compelling an admission or denial in accordance with the demand.

(8) Upon failure of the party served to answer as required under subsections (6) and (7), the examiner may, upon motion of the requesting party, enter such order as may be fair and just, including:

(a) An order that designated facts and documents shall be taken to be established in accordance with the claim of the party serving the demand to admit or deny.

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

(c) An order striking out pleadings or parts thereof.

6. Section Ag 1.18 of the Wis. Adm. Code is adopted to read:

Ag 1.18 Enforcement. Violations of these rules or orders or of the examiner issued thereunder requiring the production of evidence, or the testimony of witnesses or parties orally or in writing, or the performance of any other act in aid of the proceedings may, in addition to other available remedies, be punishable under sections 93.21(3) or (4) Wis. Stats., as applicable.

The rules contained herein shall take effect as provided in section 227.026, Wis. Stats.

Dated November 13, 1972.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE

By

  
Deputy Secretary of Agriculture