

## **ARTICLE 100-02 SEED ARBITRATION**

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### **CHAPTER 100-02-01 SEED ARBITRATION PROCESS**

Section	
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#### **100-02-01-01. Seed arbitration process.**

Repealed effective April 1, 2002.

#### **100-02-01-01.1. Definitions.**

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 4.1-53, except:

1. "Board" means the state seed arbitration board established under North Dakota Century Code section 4.1-54.
2. "Dispute involving a seed transaction" means an instance in which a seed customer suffers damage because seed does not produce or perform in conformance with the labeling or warranty or because of negligence by the seed dealer or seed labeler.
3. "Seed" has the same meaning as "agricultural seed" as defined in North Dakota Century Code chapter 4.1-53.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

#### **100-02-01-02. Petition procedure.**

1. In the event of a dispute involving a seed transaction, a seed labeler, seed dealer, or seed customer may petition for seed arbitration by filing a written complaint with the agriculture commissioner. The complaint must be filed at the address listed in section 100-01-01-01. The petitioner shall, in addition to the written complaint, submit an initial fee of two hundred fifty dollars payable to the "state seed arbitration board". The petitioner shall serve a copy of the complaint upon each party to which the complaint is directed.

2. The filing of a petition for arbitration is not a prerequisite to a person's right to maintain a civil action.
3. If seed, which is the basis of the complaint, is labeled by a person other than a seed dealer who sells directly to the farmer or other purchaser of seed, the commissioner shall mail a copy of the complaint to the person responsible for labeling the seed in order for the person to have an opportunity to file an answer.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

#### **100-02-01-03. Content of complaint.**

The complaint shall be legibly typed or printed and, if available to the complainant, must contain the following information or attachments:

1. Any factual information relevant to the dispute such as purchase dates, planting dates, field location, seeding rates, mechanical planting method, soil tests, fertilizer applications, pesticide usage, rates and timing, weather conditions, germination or yield tests or comparisons, and audiovisual records such as photographs or videotape;
2. Information alleging the extent of the seed's failure to perform or to conform to the legal requirements of, or representation made about, the seed;
3. A seed tag or label sample showing the information required for labeling requirements of seed under North Dakota Century Code chapter 4.1-53 and applicable rules. A sample shall be attached to the complaint for each separate identifiable lot of seed if relevant to the complaint;
4. The names and addresses of any persons with factual knowledge related to the complaint; and
5. Any damages sustained or to be sustained.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

#### **100-02-01-04. Answer.**

Within twenty days after receiving a copy of the complaint, each party to which the complaint is directed may file with the commissioner an answer to the complaint and serve a copy of the answer on the complainant.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

#### **100-02-01-05. Arbitration hearing.**

Upon receipt of the complaint and filing fee and after the time allowed for the filing and service of an answer, the commissioner shall submit a dispute involving a seed transaction to the chair of the board along with all documents received from the parties. The chair shall convene a hearing of the board for the purpose of gathering information from all parties to the dispute. The initial hearing must be held within sixty days after the date the commissioner received the complaint, unless a party to the dispute requests and receives, for good cause, an extension of time from the chair. The board may,

following the initial hearing, hold additional hearings if necessary before submission of a final arbitration report.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

**100-02-01-06. Nonbinding recommendation.**

The board shall issue a final report to the disputing parties within thirty days after the final hearing, unless otherwise determined by the board. The final report shall contain a nonbinding recommendation for the resolution of the dispute.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

**100-02-01-07. Procedural and evidentiary rules.**

The North Dakota rules of evidence and North Dakota rules of civil procedure do not apply in seed arbitration hearings. The board shall mail to all parties to the dispute, at least thirty days before the hearing on the complaint, a copy of the arbitration hearing format and guidelines.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03

**100-02-01-08. Witnesses - Fees.**

The board may, at its discretion, call any witnesses. When so called, any fees, if charged, must be shared equally among the parties to the dispute. Each party is responsible for all costs associated with presenting its case. If the cost of arbitration to the board exceeds the initial fee, it shall determine the additional fees to be paid by any of the parties.

**History:** Effective April 1, 2002.

**General Authority:** NDCC 4.1-54-03

**Law Implemented:** NDCC 4.1-54-03