

Agriculture

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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DEPARTMENT ADMINISTRATION

17.01 CREATION OF DEPARTMENT; COMMISSIONER; DEPUTY. There is created a department of agriculture, which shall be in the charge of a commissioner of agriculture, in this chapter called the commissioner. He shall be appointed by the governor under the provisions of section 15.06. Before entering upon the duties of his office, he shall take the oath required of state officials. He may appoint a deputy commissioner.

[1919 c 444 s 1; 1921 c 78 s 1; 1923 c 261 s 1; 1929 c 387; 1951 c 713 s 4; 1961 c 113 s 1; 1961 c 128 s 1; 1969 c 1129 art 8 s 2; 1977 c 305 s 12] (6023, 53-27 1/2)

17.013 DELEGATIONS OF POWERS TO DEPUTY COMMISSIONER. The commissioner of agriculture may designate the deputy commissioner of agriculture to act in his stead as a member, with all his rights and privileges therein, of any board, committee or commission that the commissioner is made a member of by law. The designation shall be filed with secretary of state.

[1957 c 267 s 1; 1961 c 113 s 1]

17.02 [Repealed, 1961 c 128 s 20]

17.03 POWERS AND DUTIES OF COMMISSIONER. Subdivision 1. **Development of agricultural industries.** The commissioner shall encourage and promote the development of agricultural industries, investigate marketing conditions affecting the marketing of farm products, and assist farmers, producers, and consumers in the organization and management of cooperative enterprises and the cooperative marketing of farm products; advise and assist in the location and establishment of local markets when he determines that the public necessity or the welfare of the community requires such markets, provided he be satisfied that such markets will be successfully operated by a cooperative company or municipality. It shall be the duty of the department of agriculture and the department of agriculture of the University of Minnesota to cooperate in all ways that may be beneficial to the agricultural interests of the state. It is intended that police and organizational powers in reference to agriculture shall be exercised by the state department of agriculture and that the department of agriculture of the University of Minnesota shall retain its present powers and duties relating to obtaining and disseminating agricultural information and conducting agricultural research, and shall retain custody of scientific collections.

Subd. 2. **Statistics and information.** The commissioner may collect, compile, and supply statistics and information in regard to the agricultural products of the state and agricultural industries and, to attain this result, he may cause a farm census at least once in two years, and may do so annually if deemed advisable.

Subd. 3. **Cooperation with federal agencies.** The commissioner shall cooperate with the government of the United States, with financial agencies created to assist in the development of the agricultural resources of this state, and so far as practicable may use the facilities provided by the existing state departments and the various state and local organizations. This subdivision is intended to relate to every function and duty which devolves upon the commissioner.

Subd. 4. **Publication of information.** The commissioner is authorized to publish, from time to time, such marketing or other information as may be deemed necessary to the welfare of agriculture, and to that end he shall have authority to investigate marketing or other conditions relating to agriculture in this and in other states, and to make these investigations public in such manner as shall in his judgment be most effective.

[1919 c 444 s 2,6; 1921 c 78 s 2,5; 1923 c 261 s 2,5; 1945 c 27 s 1; 1961 c 113 s 1; 1975 c 319 s 1; 1975 c 339 s 1] (6024,6027)

17.031 COMMISSIONER TO PREPARE FORM OF ACCOUNT BOOKS FOR FARMS. In addition to the powers now conferred on him by law, the commissioner is hereby empowered, and it is made his duty, to cause to be prepared, at the expense of the state, a standard form of account book and record designed for use in recording of the receipts and expenditures of farming operations and in ascertaining the cost of production of the several kinds of crops and stock produced, and the profits therefrom, which shall be known as the standard farm account approved by the commissioner, and shall be filed in his office and be open to public inspection. A sufficient number of copies thereof shall be printed by him, at the expense of the state and distributed among the several county agricultural agents. It shall be the duty of these agents to solicit and advise persons engaged in agricultural pursuits to use such standard farm account and to instruct and aid such persons in so doing.

[1921 c 491 s 1,2] (6118,6119)

17.032 COUNTY AGRICULTURAL AGENTS TO SECURE DATA FOR STATISTICAL PURPOSES. Annually, on or before January first, each county agricultural agent shall forward to at least from 10 to 25 persons engaged in agricultural pursuits in his county, the same being persons who are operating farms under average conditions existing in such county and known to be using a standard farm account, a questionnaire, to be prepared by the commissioner and supplied to such agents, containing inquiries as to the cost of production of various farm products, the amount received from the sale thereof, the average profit therefrom, and as to other matters deemed pertinent to the subject of profitable farming, with the request that the same be fully answered and returned to the county agent sending it. Thereafter such county agent shall compile the answers and data contained in the questionnaires returned to him and shall send to the commissioner a report of such compilation. The commissioner

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shall publish in his official bulletin any data, statistics, or information contained in such reports which in his opinion will be of use to persons engaged in agricultural pursuits.

[1921 c 491 s 3] (6120)

17.037 ENFORCEMENT OF LAWS, GENERALLY; COMMISSIONERS POWERS AND DUTIES. Subdivision 1. **Actions commenced; forfeiture of license; annulment of corporate existence.** The commissioner is authorized, if upon investigation he is satisfied that the laws of the state, relative to any laws placed within his jurisdiction, have been violated, to cause to be instituted, in his own name as commissioner or in the name of the state, actions in the proper court, to secure punishment of the guilty party; and, if the party complained against is a corporation, to secure the cancellation of its authority and the annulment of its corporate existence, if a domestic corporation; or, if a foreign corporation, the forfeiture of its license to do business in this state.

Subd. 2. **Reports to prosecuting officers.** If, after an investigation, it appears to the commissioner that the laws of this state have been violated in any respect, he shall present all available information bearing upon such apparent violation to the proper law enforcing or prosecuting officer of the state or of the United States.

Subd. 3. **Food manufacturer, processor, or distributor; licensing, preemption by state.** When a food manufacturer, processor, or distributor is licensed by the commissioner of agriculture, the food manufacturer, processor or distributor is exempt from the licensing requirements of any municipal corporation or subdivision of state government, except for licensing requirements which may be imposed by the municipal corporation or subdivision of state government in which the manufacturer, processor, or distributor locates a plant. All delivery equipment used by such a food manufacturer, processor or distributor is included within the meaning of this section, whether owned or operated, independently contracted, or contracted with a common carrier approved by the commissioner of agriculture. This delivery equipment is exempt from licensing by any municipal corporation or subdivision of state government except for those requirements which may be imposed by the municipal corporation or subdivision of state government in which the equipment is principally located. Delivery equipment approved by the commissioner of agriculture shall carry, at all times, a certificate of his approval for the purposes for which the equipment is utilized. Nothing in this section is intended to permit the enactment of an ordinance regulating an activity where the state has preempted the field.

[1919 c 444 s 3; Ex1919 c 47 s 4; 1921 c 78 s 3; 1923 c 261 s 3; 1967 c 756 s 1] (6025,6244)

17.04 ENFORCEMENT OF FOOD LAWS. The commissioner shall cause to be enforced all the provisions of all laws designed to prevent fraud and deception in the manufacture and sale of food and the several ingredients thereof, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food products.

[1921 c 495 s 6; 1961 c 128 s 2] (3793)

17.042 ATTORNEY GENERAL TO ADVISE COMMISSIONER. The attorney general is hereby required to assign a deputy to act as adviser for the commissioner and to institute and maintain the actions herein provided for, when sufficient evidence is available to warrant the institution of such proceedings.

[1919 c 444 s 4; 1921 c 78 s 4; 1923 c 261 s 4] (6026)

17.045 FOOD PROCESSORS; INVESTIGATION OF COMPLAINTS. The commissioner of the department of agriculture, with the cooperation and assistance of the attorney general, may investigate any complaint which suggests that an establishment licensed by the state and engaging in the production, processing or handling of meat, fish, poultry, dairy or other food products has been subjected to food handling requirements which are inconsistent with the published laws, regulations or standards of a federal, state or local agency. The findings of any such investigation shall be promptly reported to the complainant, to any trade association with whom the complainant is associated or which has requested a copy of the report of findings, and to any agency or official against which the complaint is directed or which has jurisdiction over the matter complained of. Provided, however, that the provisions of this section shall not apply to an official establishment which is operating under inspection

programs pursuant to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act.

[1973 c 745 s 1]

17.05 [Repealed, 1955 c 92 s 3]

17.06 EXPENSES. The expenses of the commissioner and his subordinates necessarily and actually incurred in the discharge of their official duties shall be paid in addition to salary, upon itemized vouchers approved by the commissioner or the deputy commissioner.

[1919 c 316 s 2; 1921 c 520 s 2] (3795)

17.07 APPROVAL OF EXPENDITURES. No expenditure of money for any purpose shall be made from any state appropriation to any agricultural, horticultural, florist, dairymen's crop improvement, poultry, livestock, or livestock breeders' association, society, or corporation, or to any other association, society, or corporation of a similar nature not a part of or connected with the state government, except upon the written approval of the commissioner. The association or society shall reimburse the commissioner of agriculture for all expenses of the commissioner incurred in examining the records and accounts of such association or society. This section shall not apply to the state agricultural society or to county agricultural associations or other societies or associations whose books and records are required by law to be audited by any state official as a prerequisite to such payment.

[1925 c 426 art 7 s 2; 1977 c 121 s 1] (53-27)

17.08 [Repealed, 1961 c 128 s 20]

17.09 [Renumbered 17.03, subd 4]

17.10 BIENNIAL REPORTS. The commissioner shall, biennially, on or before November 15 in each even-numbered year, submit to the governor and the legislature a report of his department, with such recommendations and suggestions as the interests of agriculture and foods and marketing conditions require. He shall report, on or before November 15 of each even numbered year, concerning his official acts, showing receipts and disbursements of his office, and may issue public bulletins of information from time to time.

[1919 c 444 s 8; 1921 c 78 s 7; 1923 c 261 s 6; 1974 c 406 s 58] (6028)

17.101 PROMOTIONAL ACTIVITIES. For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner of agriculture shall encourage and promote the marketing of these products by means of promotional activities such as advertising and other appropriate activities.

[1963 c 486 s 1]

17.11 [Repealed, 1955 c 92 s 3]

17.12 [Repealed, 1955 c 92 s 3]

17.13 [Repealed, 1955 c 92 s 3]

MISCELLANEOUS REGULATORY LAWS

DISCRIMINATION IN THE PURCHASE

OF FARM PRODUCTS

17.14 DISCRIMINATION IN THE PURCHASE OF FARM PRODUCTS; DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2, 3, and 4 shall, for the purposes of sections 17.15 to 17.19, and 17.037, subdivisions 1 and 2, be given the meanings subjoined to them.

Subd. 2. **Person.** "Person" means an individual, firm, copartnership, corporation, or association.

Subd. 3. **Farm products.** The term "farm products" means and includes butter, milk, cream, butterfat, cheese, other dairy products, honey, eggs, poultry, and all livestock and products of livestock such as wool, mohair, hides, and meats.

Subd. 4. **Bona fide competitor.** The term "bona fide competitor" means a duly licensed dealer in farm products maintaining a place of business in the same trade territory.

[1927 c 252 s 2; 1935 c 100 s 1; 1937 c 420 s 1] (6248-2,10522-4)

17.15 DISCRIMINATION. Any person engaged in the business of buying any farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, or cities, or between persons in the same community, in this state, by purchasing any farm products at a higher price or rate in one locality or from one person than is paid for farm products of the same kind, quality, and grade by such person in another section, locality, community, or city, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the reasonable cost of transportation from the locality of purchase to the locality of manufacture or sale, or who shall fail to deduct reasonable transportation costs from the purchase price paid, or who shall fail to deduct the reasonable costs of hauling when such products are gathered by wagon or truck, or who shall pay or offer to pay in trade or in exchange for goods, wares or merchandise a higher price for such farm products than the cash price paid or offered to be paid for such farm products, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Wherever the transportation costs actually charged for hauling cream shall be two cents or more per pound for butterfat therein contained, and 15 cents per 100 pounds for transportation of whole milk, such charge shall be deemed a compliance with the terms of sections 17.14 to 17.19. It shall not be unfair discrimination for any person to pay, in any section, locality, community, or city, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant.

[1927 c 252 s 3; 1937 c 420 s 2; 1945 c 122 s 1; 1973 c 123 art 5 s 7] (6248-3)

17.16 PRIMA FACIE EVIDENCE OF DISCRIMINATION. Proof that any person has paid a higher price for any such farm products in one section, locality, community, or city than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of sections 17.14 to 17.19.

[1927 c 252 s 4; 1973 c 123 art 5 s 7] (6248-4)

17.17 COMPLAINTS; INVESTIGATIONS; PROSECUTIONS; FORFEITURES; INJUNCTIONS. If complaint be made to the commissioner that any person is guilty of unfair discrimination defined by section 17.15, he shall investigate such complaint and he may, upon his own initiative, investigate whether or not section 17.15 has been violated; and, in either event, for that purpose, he may subpoena witnesses, administer oaths, take testimony, and if, in his opinion, sufficient ground exists therefor, he may prosecute an action, in the name of the state, in the proper court, to annul the act of incorporation or the existence of a corporation engaged in such business practice. If any corporation is adjudged by any court guilty of unfair discrimination as defined by section 17.15, such court may vacate the charter or revoke the authority of such corporation to do business in this state and may permanently enjoin it from transacting business in this state.

[1927 c 252 s 6] (6248-6)

17.18 PROSECUTIONS INSTITUTED BY OTHERS. The authority hereby extended to the commissioner shall be considered as duties only and shall not be con-

strued to preclude any prosecuting officer or any party interested from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of sections 17.14 to 17.19.

[1927 c 252 s 8] (6248-8)

17.181 PENALTY. Any person violating the provisions of section 17.15 shall, upon conviction thereof, be fined not less than \$50 for each offense; or in default of the payment of such fine by imprisonment in the county jail for not less than three months nor more than one year.

[1927 c 252 s 7] (6248-7)

17.19 CONSTRUCTION. Nothing in sections 17.14 to 17.19 shall be construed as repealing any other act or part of any other act, unless inconsistent herewith, but the remedies therein provided shall be cumulative to all other remedies provided by law.

[1927 c 252 s 9; 1937 c 420 s 3] (6248-9)

- 17.20** [Repealed, 1949 c 559 s 20]
- 17.201** [Repealed, 1971 c 638 s 20]
- 17.202** [Repealed, 1971 c 638 s 20]
- 17.203** [Repealed, 1971 c 638 s 20]
- 17.204** [Repealed, 1971 c 638 s 20]
- 17.205** [Repealed, 1971 c 638 s 20]
- 17.206** [Repealed, 1971 c 638 s 20]
- 17.207** [Repealed, 1971 c 638 s 20]
- 17.208** [Repealed, 1971 c 638 s 20]
- 17.209** [Repealed, 1971 c 638 s 20]
- 17.21** [Repealed, 1949 c 559 s 20]
- 17.211** [Repealed, 1971 c 638 s 20]
- 17.212** [Repealed, 1971 c 638 s 20]
- 17.213** [Repealed, 1971 c 638 s 20]
- 17.214** [Repealed, 1971 c 638 s 20]
- 17.215** [Repealed, 1971 c 638 s 20]
- 17.216** [Repealed, 1971 c 638 s 20]
- 17.217** [Repealed, 1971 c 638 s 20]
- 17.218** [Repealed, 1971 c 638 s 20]
- 17.219** [Repealed, 1971 c 638 s 20]
- 17.22** [Repealed, 1949 c 559 s 20]

WILD FLOWERS

17.23 CONSERVATION OF CERTAIN WILD FLOWERS. Subdivision 1. **Prohibition.** No person within the state shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*), or any species of lady slipper (*Cypripedieae*), or any

member of the orchid family, trillium of any species, lotus (*Nelumbolutea*), gentian (*Gentiana*), arbutus (*Epigaea repens*), or any species of lilies (*Lilium*), or any thereof, dug, cut, plucked, pulled, or gathered in any manner from any public land or from the land of any private owner without the written consent of such owner or other occupant of such land, and then only upon written permission of the commissioner, and for scientific and herbarium purposes; except, that any persons may upon their own lands cultivate for sale and sell these flowers by registering the purpose to do the same with the commissioner.

Subd. 2. **Prosecution.** The commissioner is hereby authorized, and it shall be his duty, to administer this section, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of subdivision 1, it shall be his duty to assemble the facts and transmit the same to the attorney general, or, in the discretion of the commissioner, he may act through the county attorney of the county in which the violation was committed, whose duty it shall be to forthwith institute proceedings and prosecute the same against any person or persons charged with such violation. It is hereby made the duty of the county attorney to prosecute any and all cases submitted to him by the commissioner or the attorney general.

Subd. 3. **Punishment.** Any person who violates any of the provisions of subdivision 1 shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than \$10 and the costs of such prosecution nor more than \$50 and the costs of such prosecution, or in default of payment thereof shall be imprisoned in the county jail for not less than ten nor more than 30 days for each and every such conviction. All fines and money thus collected shall be deposited in the state treasury.

[1925 c 409 s 1-3; 1935 c 100 s 1] (10522-1,10522-2,10522-3)

17.24 Subdivision 1. [Renumbered 17.037]

Subd. 2. [Renumbered 17.037]

Subd. 3. [Repealed, 1961 c 128 s 20]

17.25 [Renumbered 17.042]

17.26 [Repealed, 1955 c 92 s 3]

17.27 [Repealed, 1955 c 92 s 3]

17.28 [Renumbered 308.92]

17.29 Subdivision 1. [Renumbered 17.181]

Subd. 2. [Repealed, 1949 c 559 s 20]

Subd. 3. [Renumbered 30.59]

Subd. 4. [Renumbered 17.219]

17.30 [Renumbered 30.55]

17.31 [Renumbered 30.56]

17.32 [Renumbered 30.57]

17.33 [Renumbered 30.58]

17.34 [Repealed, Ex1959 c 73 s 1]

DOMESTIC FUR-BEARING ANIMALS

17.35 RAISING DOMESTIC FUR-BEARING ANIMALS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2, 3, and 4, for the purposes of this section, shall be given the meaning subjoined to them.

Subd. 2. **Domestic animal.** "Domestic animal or animals" means fox, mink, chinchilla, karakul, marten, or fisher raised in captivity for two or more generations for breeding or commercial purposes.

Subd. 3. **Fur farmer.** "Fur farmer" means anyone engaged in breeding, raising, selling, or disposing of domesticated fur-bearing animals.

Subd. 4. **Person.** "Person" means individual, firm, copartnership, association or corporation.

Subd. 5. **Agricultural products and pursuits.** Such domestic animals, the pelts and products thereof, shall be deemed agricultural products, and the breeding, raising, producing and marketing thereof shall be deemed to be an agricultural pursuit.

Subd. 6. **Licenses.** Before any person shall engage in business as a fur farmer, he shall obtain a license therefor from the commissioner. An application for such license shall be made to the commissioner in writing, accompanied by a fee of \$10, stating the name of the applicant, the description of the premises upon which such business is to be conducted, the species of the domestic animals to be maintained and handled thereon, and such further information as the commissioner may require. The commissioner shall grant the application and issue a license after he has determined that the application is made in good faith and with intent to carry on the business described in the application, and that the facilities are adequate therefor. All licenses issued pursuant to this section shall expire on the 31st day of December of the year for which the same is issued. Any person to whom a license has been issued may, upon application, obtain a renewal license upon payment of the annual fee of \$10, which application for renewal shall be made on or before January 1 of each year. If a license renewal is not applied for on or before January 1 of each year, a penalty of 25 percent of the license fee shall be imposed. All moneys received in payment of license fees and penalties under this section shall be paid into the state treasury.

Subd. 7. **Tags.** Every fur farmer transporting or selling any pelts of domestic animals shall attach to every package of pelts a tag identifying the pelts therein. Such tags shall be obtained from the commissioner.

Subd. 8. **Annual reports of pelts sold.** On or before January 31 of each year every fur farmer shall file with the commissioner a verified report of the number of pelts of each species sold during the preceding calendar year.

Subd. 9. **Enforcement.** The commissioner shall enforce the provisions of this section and for such purposes is authorized to make and adopt such rules and regulations as he may deem necessary, not inconsistent with the provisions of this section.

Subd. 10. **Violation.** Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Subd. 11. **Application.** This section shall not be construed so as to modify, amend, or repeal any provision of law relating to wild game or birds, or wild fur-bearing animals.

Subd. 12. [Expired]

[1947 c 226 s 1-9; 1959 c 19 s 1; 1961 c 173 s 1; 1963 c 123 s 1; 1975 c 412 s 1]

17.36 [Renumbered 31.73]

17.37 [Repealed, 1961 c 128 s 20]

CHEMICALLY TREATED GRAIN

17.41 **GRAIN DEFINED.** Unless the language or context clearly indicates that a different meaning is intended, the term "grain" shall mean whole seeds or entire grains or any broken parts thereof, of field peas, field beans, soybeans or entire legumes, or flax, wheat, rye, barley, oats, corn, sorghum, spelt or emmer, vetch, buckwheat, or any other cereals.

[1955 c 415 s 1]

17.42 CHEMICALLY TREATED GRAIN, SALE. Subdivision 1. It shall be unlawful for any person, firm, corporation, or association to sell, or offer for sale, or expose for sale, or to purchase for the purpose of resale, any grain for human, animal, or poultry consumption, if such grain contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, providing such person, firm, corporation or association knew or upon the exercise of reasonable diligence could have known of the presence in the grains in question of toxic chemicals in sufficient quantities to be harmful to humans, animals or poultry.

Subd. 2. It shall also be unlawful for any person knowingly to sell, or offer for sale, or expose for sale any grain for human, animal or poultry consumption, containing toxic chemicals in any quantity, without informing the purchaser, in writing, of such fact.

[1955 c 415 s 2]

17.43 VIOLATIONS; PENALTIES. Any person violating section 17.42, shall be guilty of a gross misdemeanor and shall be fined not less than \$250 or be imprisoned for not less than 60 days, or both.

[1955 c 415 s 3]

17.44 SEIZURE OF CHEMICALLY TREATED GRAIN; RECONDITIONING. Subdivision 1. In the event grain is sold or offered for sale for the purpose of human, animal, or poultry consumption, which contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, the district court of the judicial district in which the grain is found may, upon complaint and showing made by the commissioner of agriculture, order said grain to be seized. In the event the court finds that the grain is subject to seizure, it shall order the grain to be sold or otherwise disposed of for purposes other than human, animal, or poultry consumption. To this end the court may require the grain to be specially labeled, dyed, or otherwise altered in appearance. Upon application of the owner or any other person interested in the grain, the court shall permit such person at his own expense to recondition said grain and if, after reconditioning, it appears to the satisfaction of the court that the toxic chemicals have been removed so that the grain is no longer harmful to humans, animals, or poultry, the court then shall release the grain.

Subd. 2. The court at any time after seizure and up to a reasonable time before trial shall allow any interested party, his attorney or agent, to obtain a representative sample of the grain seized and a true copy of the analysis on which the seizure is based.

[1955 c 415 s 4; 1961 c 113 s 1]

EUROPEAN RABBITS

17.45 IMPORTATION OF EUROPEAN RABBIT FORBIDDEN. Subdivision 1. It is unlawful for any individual, person, firm, partnership, or corporation to import into Minnesota the European rabbit, commonly known as the San Juan Hare, of *Cuniculus* species and the *Orystalbus-Cuniculus* Genus, without obtaining permission from the commissioner of agriculture.

Subd. 2. Any person violating this section is guilty of a misdemeanor.

[1957 c 486 s 1,2; 1961 c 113 s 1]

COMMODITIES PROMOTION ACT

17.51 CITATION; AGRICULTURAL COMMODITIES PROMOTION ACT. Sections 17.51 to 17.69 may be cited as the agricultural commodities promotion act.

[1969 c 1021 s 1]

17.52 PURPOSE. It is hereby declared to be in the interest of the public welfare that Minnesota farmers who produce agricultural commodities for domestic and foreign markets shall be permitted to act separately, or jointly in cooperation with handlers, dealers and processors of such products, with the Minnesota department of

agriculture, the university of Minnesota, and any other interested agencies, to promote and stimulate the use, sale and consumption of such commodities and to improve methods of production, processing and marketing thereof; it is further declared that provision for the establishment of Minnesota agricultural commodity research and promotion councils is deemed an appropriate means to accomplish such objectives. Sections 17.51 to 17.69 shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the commissioner of agriculture or any other agency of the state, but shall be supplementary thereto, and in aid and cooperation therewith.

[1969 c 1021 s 2; 1976 c 149 s 8,62 subd 2]

17.53 DEFINITIONS. Subdivision 1. As used in sections 17.51 to 17.69, the terms defined in this section shall have the following meanings:

Subd. 2. "Agricultural commodity" means any agricultural product, including without limitation animals and animal products, grown, raised, produced or fed within the state of Minnesota for use as food, feed, seed or any industrial or chemurgic purpose.

Subd. 3. "Commercial channels" means the processes of sale of any agricultural commodity to any commercial buyer, dealer, processor, cooperative or to any person, public or private, who resells such commodity or any product produced from such commodity for slaughter, storage, processing or distribution.

Subd. 4. "Person" means any individual, corporation, association, cooperative or partnership.

Subd. 5. "Council" means the research and promotion council created under the provisions of sections 17.51 to 17.69 in connection with the organization of the producers of a particular commodity as herein provided.

Subd. 6. "First purchaser" means any person that buys agricultural commodities for movement into commercial channels from the producer; or any lienholder, secured party or pledgee, public or private, or assignee of said lienholder, secured party or pledgee, who gains title to the agricultural commodity from the producer as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge was created.

Subd. 7. "Commissioner" means the commissioner of agriculture of the state of Minnesota.

Subd. 8. "Producer" means any person who owns or operates an agricultural producing or growing facility for the agricultural commodity under consideration for referendum and shares in the profits and risk of loss from such facility, and who grows, raises, feeds or produces said agricultural commodity in Minnesota during the current or preceding marketing year.

Subd. 9. "Qualified voter" means any producer defined above who would be subject to the payment of fees to finance the activities described in sections 17.51 to 17.69.

Subd. 10. "Promotional order" means an order issued by the commissioner with the advice and consent of the council pursuant to this chapter which establishes a program for promotion, advertising, production, market research, and market development of the growing, processing, distributing, sale of or handling of agricultural products covered by referendum and provides for the collection of fees and financing the same.

Subd. 11. "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest or lien after harvest.

Subd. 12. "Participating producer" means any producer of an agricultural commodity for which a promotional order has been issued and exists, who produces that commodity in the organized area and meets the minimal requirements established by the council to qualify as a producer.

[1969 c 1021 s 3; 1976 c 149 s 9,62 subd 2]

17.54 COUNCILS; MEMBERSHIP; ELECTION; TERM. Subdivision 1. **Creation.** A council is hereby created for the producers of each agricultural commodity who file with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of sections 17.51 to 17.69, which petition is signed by 500 or 15 percent, whichever is less, of the producers of such commodity. Such petition

shall be certified by at least two producers to have been signed only by producers of the commodity involved.

Subd. 2. **Membership.** Upon petition of the required number of producers the commissioner shall, after consultation with the various producer or commodity organizations of the particular commodity petitioning for a referendum, determine the size of the council and distribution of the council membership. The council may designate industry and university of Minnesota personnel, either by name or by office, to serve as consultants to the council.

Subd. 3. **Election.** Within 30 days after the filing of the petition by the required number of the producers of an agricultural commodity the commissioner shall appoint a nominating committee of five producers of that commodity who shall, within 60 days from the filing of such petition nominate at least two producer candidates for each council position and certify the names of such nominees to the commissioner. Nominees shall be selected with a view to establishing a fair representation of all producers of the particular commodity throughout the area to be organized which shall comprise the entire state unless the commissioner determines that at least 95 percent of the production of the subject commodity is in a lesser area in which event he shall define such area following county lines. Upon receipt of the nominations the commissioner shall promptly arrange an election to be held at places designated by him reasonably convenient to all producers in the organized area and give at least seven days' notice of such election in legal newspapers having a general circulation in the organized area. Ballots setting forth the names of nominated candidates and providing for write in candidates shall be made available at all polling places. Only producers of the agricultural commodity involved shall be qualified to vote, and polling procedures shall be established to avoid voting by others than qualified producers. An impartial committee appointed by the commissioner shall tabulate the votes and the candidates receiving the most votes shall be declared elected to the first council. In each calendar year following the one in which the first council is elected candidates shall be selected and an election shall be held to elect a successor or successors to the council member or members whose term or terms expire in that year. Nominations shall be made and the elections shall be held in the same manner as prescribed for the first council except that the choice of nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner with the consent of the council.

Subd. 4. **Terms.** At the first meeting of the first council the commissioner shall determine by lot one-third of the council members whose terms shall expire June 30 in the calendar year following the year of the first election, one-third of the council members whose terms shall expire June 30 in the second calendar year and the remaining council members whose terms shall expire June 30 in the third calendar year. In the event the commissioner has designated specific areas for representation on the council, the terms of council members in any one area shall not expire in the same year. All elected successor council members shall be elected for three year terms and each shall serve until his successor is elected and qualified. In the event a council member ceases to have any of the qualifications herein established his office shall be deemed vacant. Any interim vacancy on the council shall be filled by the council for the remainder of the term vacated.

Subd. 5. **Organization.** The commissioner shall serve as chairman of the council without vote. The council shall from its own membership elect a vice-chairman, who shall act in the absence of the commissioner, a secretary, and such other officers as the council may deem appropriate. The terms of such officers shall expire on June 30 of each year and their successors shall be elected at the first meeting following that date.

[1969 c 1021 s 4; 1973 c 237 s 1; 1973 c 242 s 1; 1976 c 149 s 10,62 subd 2]

17.55 MEETINGS; QUORUM. Subject to the requirements of sections 17.51 to 17.69, the council shall meet at such times and place as it may determine or upon call of the chairman or of any three members of the council. A majority of the voting members of the council shall constitute a quorum for the transaction of all business in carrying out the duties of the council.

[1969 c 1021 s 5; 1976 c 149 s 62 subd 2]

17.56 COUNCIL TO FORMULATE AND SUBMIT PROMOTIONAL ORDER.
Subdivision 1. **Formulation.** Within 15 days after its election the first council for pro-

ducers of a particular commodity shall meet and formulate a promotional order establishing a program for development, promotion, advertising, research, distribution and the expansion of the sale, use and consumption of the commodity it represents and establishing fees to be paid by producers to finance the proposed activities.

Subd. 2. Hearings. The commissioner, with the advice and consent of the council, shall hold a public hearing or public hearings on the proposed promotional order in an area or areas and at a time or times affording reasonable opportunities to producers to attend. The council together with the commissioner shall determine after such hearings whether or not the promotional order shall be amended, modified or supplemented. If changes or additions of substance are made, the council and the commissioner shall hold like public hearings on the amended or supplemented promotional order.

Subd. 3. Referendum. Following the hearing, or hearings, the council and commissioner shall conduct a referendum on the proposed final promotional order. At least ten days' notice of the time and places of such referendum shall be published in a legal newspaper of general circulation in each county affected. In addition, direct written notice thereof shall likewise be given to each county extension office in any county involved in the referendum. Such notice shall include details of the promotional order to afford all producers of the subject commodity access to complete information about the promotional order. The promotional order shall become effective if approved by a majority of those voting in the referendum, and such order shall be applicable only to those producers of the subject commodity within the area of the state organized pursuant to sections 17.51 to 17.69. Upon completion of the referendum the commissioner shall make findings and issue an appropriate order based on said findings.

[1969 c 1021 s 6; 1973 c 242 s 2; 1976 c 149 s 62 subd 2]

17.57 ADDITIONAL POWERS AND DUTIES OF COUNCIL. Subdivision 1. **Adoption of regulations and budget.** The council shall (a) adopt and administer rules and regulations for the administration of the promotional order, including among other things, minimal requirements to qualify as a producer; (b) recommend amendments to the order, such amendments to be adopted only after a producer referendum in which a majority of the producers favor such adoption; (c) prepare an annual estimated budget for the operation of the promotional order; and (d) prepare an annual report on the programs of the order, said report to be made available to the producers concerned.

Subd. 2. Collection of assessments and data. The council shall provide a procedure for the collection of the producer assessments to finance the promotional order and for the collection of such necessary information and data as is necessary for the proper administration of the order.

Subd. 3. Refunds of fees. The council shall provide for the refund of any fees paid by the producer who objects to payment of fees.

Subd. 4. Donations. The council is authorized to accept donations of funds, property, services or other assistance from public or private sources for the purpose of furthering the objectives of sections 17.51 to 17.69.

Subd. 5. Right to sue and be sued. The council shall have the right to investigate and prosecute in the name of the state of Minnesota any action or suit to enforce the collection or insure payment of the fees authorized by the provisions of sections 17.51 to 17.69 and to sue and be sued in the name of the council; to do all other things necessary to the administration and implementation of sections 17.51 to 17.69.

Subd. 6. Collection and expenditure of funds; audit. The council shall be responsible for the collection and expenditure of all funds provided for under sections 17.51 to 17.69 and shall provide for an annual audit of funds to be made by a certified auditing firm. An annual financial statement shall be available to any producer upon request.

[1969 c 1021 s 7; 1976 c 149 s 62 subd 2]

17.58 POWERS AND DUTIES OF COMMISSIONER. Subdivision 1. **Contracts.** The commissioner, with the advice and consent of the council, may contract and cooperate with any person, firm, corporation or association, or with any local, state, federal or international agency or institution, for market development, education, publicity, promotion, research, transportation and advertising within the purposes of sections 17.51 to 17.69.

Subd. 2. **Personnel.** The commissioner, with the advice and consent of the council, may appoint, employ, provide necessary bond, discharge, fix compensation for and prescribe the duties of such administrative, clerical, technical and other personnel and agencies as may be deemed necessary.

Subd. 3. **General powers.** In administering sections 17.51 to 17.69, the commissioner shall have such other powers as may be conferred upon him by law not inconsistent with the provisions of sections 17.51 to 17.69.

Subd. 4. **Regulations.** In the organization and operation of a promotional order for any commodity coming under sections 17.51 to 17.69, the commissioner shall follow the rules and regulations as developed by the council pursuant to the provisions of sections 17.51 to 17.69.

[1969 c 1021 s 8; 1976 c 149 s 62 subd 2]

17.59 FEES TO DEFRAY EXPENSES. Subdivision 1. **Assessment.** For the purpose of providing funds to defray the necessary expenses incurred by the commissioner and the council in formulating, submitting to referendum, issuing, administering and enforcing a promotional order, the promotional order shall provide for assessing and collecting fees in amounts sufficient to defray such expenses, and shall indicate the maximum assessment rate which shall not exceed one percent of the market value of the year's production of participating producers. Any increase in the maximum assessment provided for in the promotional order must be within the limit herein prescribed and must be approved by the majority of voting participating producers in a referendum held for that purpose after reasonable notice of such proposed increase.

Subd. 2. **Payment.** The council together with the commissioner shall establish the procedure for the payment of the assessment by the producer, and such procedure shall be clearly outlined in the proposed promotional order. Such procedure must be fair, reasonable and whenever possible shall be deducted by the first purchaser at the time of sale. The first purchaser shall submit to the council through the commissioner's office any fees so deducted once every 30 days. When proof of payment of the fee assessed can be furnished, it shall not be necessary for any subsequent buyer to deduct the fee at time of purchase.

Subd. 3. **Financing referendums.** The commissioner shall require producers petitioning for a promotional order to deposit with him in advance such amount as he deems necessary to defray the expense of electing the first council, formulating an order, submitting it to referendum and issuing the order. If the order is issued, such producers shall be reimbursed when funds are available from assessments. If the order is not issued the commissioner shall refund only that portion of the deposit remaining after payment of expenses incurred on a pro rata basis.

Subd. 4. **Deposit and use of fees.** Fees collected pursuant to sections 17.51 to 17.69 shall be deposited in a bank or banks or other depository approved by the commissioner of banks and shall be disbursed by such officers and employees as may be approved by the council for the necessary expenses incurred in the administration of sections 17.51 to 17.69. Fees collected shall be used exclusively for the purpose collected and not for legislative or political activities.

[1969 c 1021 s 9; 1976 c 149 s 62 subd 2]

17.60 COMPENSATION AND EXPENSES. Each member of the council, except the commissioner, shall be entitled to a reasonable per diem to be fixed in the promotional order and actual expenses incurred while attending council meetings, but only actual expenses incurred while engaged in other official business of the council.

[1969 c 1021 s 10; 1976 c 149 s 62 subd 2]

17.601 PER DIEM EXPENSE. The per diem expenses allowed to members of the beef industry council, the paddy wild rice industry council, or any other council pursuant to section 17.60, shall not exceed \$35 per day.

[1973 c 575 s 1 subd 4; 1974 c 368 s 2; 1976 c 149 s 62 subd 2]

17.61 LEGAL COUNSEL. The council may appoint an attorney who shall act for the council and the commissioner when required. The council shall fix the compen-

sation and terms of employment of such attorney. The provisions of chapter 8 shall not apply to this attorney.

[1969 c 1021 s 11; 1976 c 149 s 62 subd 2]

17.62 RECORDS OF THE COUNCIL. All of the records of the council shall be public records and shall be available for inspection for any lawful purpose, provided, however, that the council shall be empowered to make reasonable rules and regulations concerning the time or place of such inspection, or the manner in which the information shall be made available.

[1969 c 1021 s 12; 1976 c 149 s 62 subd 2]

17.63 REFUND OF FEES. Any producer may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner and council may require by rule or regulation, have the fee paid pursuant to sections 17.51 to 17.69 refunded to him. Such request for refund must be received in the office of the commissioner or the council within 60 days following the payment of such fee, but in no event shall these requests for refund be accepted more often than 12 times per year and must be made at least once each year. Refund shall be made by the commissioner or council within 30 days of the request for refund provided that the fee sought to be refunded has been received. Rules and regulations governing the refund of fees for the commodity involved shall be formulated by the council together with the commissioner and shall be fully outlined at the hearing, or hearings, and be available for the information of all producers concerned with the referendum.

[1969 c 1021 s 13; 1976 c 149 s 62 subd 2]

17.64 TERMINATION OF THE ORDER. Subdivision 1. **By council.** The council shall suspend or terminate a promotional order whenever it finds, after a public hearing or hearings, that an order is contrary to or does not tend to effectuate the purposes or provisions of sections 17.51 to 17.69, provided that such suspension or termination shall not become effective until the expiration of the current marketing year. The current marketing year for any commodity under sections 17.51 to 17.69 shall be determined by the council together with the commissioner.

Subd. 2. **By referendum.** Upon petition of the same number of producers as required to initiate the promotional order, the commissioner with the advice and consent of the council shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. He shall terminate the order at the end of the current marketing year if a majority of the producers voting in the referendum vote in favor of termination. Such petition of producers shall include a certification statement that the signatures are those of qualified producers of the commodity involved.

[1969 c 1021 s 14; 1976 c 149 s 62 subd 2]

17.65 EXPENDITURE OF FUNDS UPON TERMINATION OF ORDER. Any funds remaining with the council after the termination of an order shall be expended to meet existing legal obligations of the council. Any surplus remaining shall be expended for market research purposes, or other lawful purposes under sections 17.51 to 17.69, at the discretion of the council.

[1969 c 1021 s 15; 1976 c 149 s 62 subd 2]

17.66 ASSOCIATION OF PRODUCERS NOT ILLEGAL. No activity, including meetings, undertaken in pursuance of the provisions of sections 17.51 to 17.69 and intended to benefit the producers, handlers and processors of such agricultural commodity shall be deemed or considered illegal or in restraint of trade.

[1969 c 1021 s 16]

17.67 PENALTY FOR VIOLATIONS. Any person who violates any provision of sections 17.51 to 17.69 or rule or regulation of the council promulgated pursuant to sections 17.51 to 17.69 is guilty of a misdemeanor.

[1969 c 1021 s 17; 1976 c 149 s 62 subd 2]

17.68 EXEMPTIONS. Sections 17.51 to 17.69 shall not apply to producers of agricultural commodities subject to promotional orders established under any act effective on or before July 1, 1969 and specifically applicable to a particular commodity.

[1969 c 1021 s 18]

17.69 NONLIABILITY OF STATE. No liability shall be imposed upon the state of Minnesota for any acts or omissions of the commissioner or any council established pursuant to sections 17.51 to 17.69.

[1969 c 1021 s 19; 1976 c 149 s 62 subd 2]

AGRICULTURAL MARKETING

AND BARGAINING

17.691 CITATION. Sections 17.691 to 17.701 shall be known and may be cited as the "agricultural marketing and bargaining act of 1973."

[1973 c 736 s 1]

17.692 DECLARATION OF POLICY. Since agricultural products are produced by numerous and often scattered individual producers, the marketing and bargaining position of individual producers will be adversely affected unless they are free to join together voluntarily in cooperative associations or other associations as authorized by law. Membership of a producer in such a cooperative association or other association can only be meaningful if a handler of agricultural products is required to bargain in good faith with an agricultural cooperative association or other association as the representative of the members of such association. Production and marketing of agricultural commodities constitutes a basic and essential industry. Agricultural producers do not now enjoy the opportunity, comparable to that of industrial workers and those in many other forms of enterprise or employment, to organize and bargain effectively. Neither is adequate government provision available to assure that the bargaining process shall be fair both to producers and handlers and in the public interest.

[1973 c 736 s 2]

17.693 DEFINITIONS. Subdivision 1. For the purposes of sections 17.691 to 17.701, the terms defined in this section have the meanings given them.

Subd. 2. "Association" means an association of producers, or federation of cooperative association of producers engaged in producing, marketing, bargaining, shipping or processing functions of an agricultural commodity on behalf of its members who are producers of such agricultural commodity, which has been accredited by the commissioner.

Subd. 3. "Person" means an individual, partnership, corporation or association.

Subd. 4. "Producer" means any person, who in any one calendar year within the previous two calendar years, produces or causes to be produced any agricultural commodity in quantity beyond his own family use, and who is able to transfer, during the calendar year, to a handler or an association a merchantable title to the agricultural commodity or provide management, labor, machinery, facilities, or any other production input, with the assumption of risk, for the production of the agricultural commodity under a written contract.

Subd. 5. "Agricultural commodity" includes all agricultural goods produced under contract for marketing as defined by the commissioner of agriculture. It does not include any commodity sold by a producer to another producer for his own exclusive use and not for resale. The kinds, types and subtypes of products to be classed together as an agricultural commodity for the purposes of sections 17.691 to 17.701 shall be determined by the commissioner on the basis of common usage and practice.

Subd. 6. "Handler" means a person, other than an association, engaged in the business or practice of acquiring agricultural commodities from producers or associations for processing or sale; grading, packaging, handling, storing or processing agricultural commodities received from producers or associations; contracting or negotiating contracts or other arrangements with producers or associations with respect to the production of any agricultural commodity; or acting as an agent or broker for a handler in the performance of any function or act specified above. It does not include a producer who sells at a retail establishment which he owns and operates or who sells at a produce market, agricultural commodities produced by him and agricultural commodities produced by another producer subject to value limitation established by the commissioner.

Subd. 7. "Commissioner" means the commissioner of agriculture of the state of Minnesota or his designated authority.

Subd. 8. "Marketing year" shall mean, 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 shall determine an alternative time period for a specific agricultural commodity to be designated as its marketing year.

[1973 c 736 s 3]

17.694 ACCREDITATION. Subdivision 1. Any association accredited under this section may engage in bargaining as provided for under sections 17.691 to 17.701.

(1) An association desiring accreditation shall file with the commissioner in the form required by the commissioner. The request shall contain properly certified evidence that the association meets the standards for accreditation and shall be accompanied by a report of the names and addresses of member producers, the name of each handler to whom the member producer delivered or contracted to deliver the agricultural commodity during the previous two calendar years and the quantity delivered or acreage grown. A fee to cover the costs of the commissioner in processing the request shall be established pursuant to chapter 15, and paid by the association when the request is filed.

(2) The commissioner may require all handlers of an agricultural commodity produced in a bargaining unit area as individuals or through their trade association to file with the board within 30 days following such a request, a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity who have delivered the agricultural commodity to the handler during the two calendar years preceding the filing of the report and the quantities of the agricultural commodity received by the handler from each named producer during those periods. The information contained in the individual reports of handlers filed with the commissioner shall not be made public by the commissioner nor available to any person for private use.

Subd. 2. In determination of accreditation, the commissioner shall determine whether bargaining shall be appropriate by plant, processor, or company. This determination shall be the unit area for the bargaining provisions of sections 17.691 to 17.701 as is applicable to associations and handlers. In making his determination, the commissioner shall define as appropriate the largest bargaining unit area in terms of the quantity of the agricultural commodity produced, the definition of the agricultural commodity, geographic area covered and number of producers included as is consistent with the following criteria:

- (a) The community of interest of the producers included;
- (b) The potential serious conflicts of interests among members of the proposed unit;
- (c) The effect of exclusions on the capacity of the association to effectively bargain for the bargaining unit as defined;
- (d) The kinds, types and subtypes of products to be classed together as agricultural commodity for which the bargaining unit is proposed;
- (e) Whether the producers eligible for membership in the proposed bargaining unit meet the definition of "producer" for the agricultural commodity involved;
- (f) The wishes of the producers;
- (g) The pattern of past marketing of the commodity.

Subd. 3. An association shall be accredited only if it complies with the following:

(a) The association meets the requirements of the Capper-Volstead Act, 7 U.S.C. 291-2.

(b) The association has submitted a copy of its bylaws which provide that: Each member of the association shall have one vote in all votes of the membership of the association; that officers or directors shall be elected by a majority of the members voting or by delegates representing a majority of the membership; and that all elections shall be by secret ballot.

(c) The association would have marketing and bargaining contracts for the current or next marketing year with more than 50 percent of the producers of an agricultural commodity who are in the bargaining unit area and these contracts would cover more than 50 percent of the quantity of that commodity produced by producers in that bargaining unit area. The commissioner may determine the quantity produced by the bargaining unit area using information on production in the prior year, current

marketing information, and projections on production during the current marketing year. The commissioner shall exclude from the quantity of the agricultural commodity contracted by producers with producer owned and controlled processing cooperatives and any quantity produced by handlers. An association whose main purpose is bargaining but which processes a surplus into a form which is not the subject of bargaining is not a processing cooperative. The contracts with members shall specify the agricultural commodity and that the members have appointed the association as their exclusive agent in negotiations with handlers for prices and other terms of trade with respect to the sale and marketing of the agricultural commodity and obligate the members of the association to dispose of their production or holdings of the agricultural commodity through or at the direction of the association.

Subd. 4. Within 60 days of the filing date of the request for accreditation by an association, the commissioner shall determine whether the association shall be accredited. If the commissioner determines that insufficient evidence was filed by the association, the commissioner may permit the association to file an amended request for accreditation within 30 days following the determination and notification of the association. The commissioner shall then determine, within 30 days of the filing of the amended request, whether the association shall be accredited. An association which is denied accreditation after filing of an amended request may not file another request for accreditation for a period of one year.

Subd. 4a. Within 30 days of a decision by the commissioner denying accreditation to an association, the association may request a hearing before the commissioner. The commissioner shall then conduct a hearing to determine whether the association shall be accredited. This hearing shall be governed by the provisions of sections 15.0418 and 15.0419. If the commissioner, after this hearing has been held, determines that the association should not be accredited, the association may appeal this decision in accordance with sections 15.0424 and 15.0425. Only an association denied certification after such hearing may appeal under this chapter.

Subd. 5. Accreditation of the association by the commissioner shall be effective upon receipt by the association of the notice of accreditation from the commissioner.

Subd. 6. The commissioner shall consider revocation of accreditation upon any of the following conditions:

(a) Upon receipt of a request from an accredited association for its own disaccreditation.

(b) Upon receipt of a petition requesting that the accredited association be discredited and bearing the signatures of at least ten percent of the producers of an accredited association in the bargaining unit. Following the receipt of a petition bearing the signatures of at least ten percent of the producers of an accredited association in a bargaining unit the board shall order the commissioner to initiate a referendum among the members of the accredited association and if in the referendum a majority of the producers, producing 50 percent of the commodity approve, the association accreditation shall be revoked by the board.

Subd. 7. The accredited association shall represent all member producers who are in the bargaining unit area and it shall act as exclusive sales agents for the bargaining unit area in negotiations with handlers. The association may not assess, bargain for, or claim to represent those producers who choose not to be represented by the association or choose not to have a bargaining committee bargain for them.

[1973 c 736 s 4; 1975 c 88 s 1,2]

17.695 MARKETING AND BARGAINING COMMITTEE. Subdivision 1. After accreditation of the association, the association shall establish and authorize a marketing and bargaining committee to negotiate, as the association's exclusive agent, with handlers for the sale and marketing of the agricultural commodity for which the association was accredited.

Subd. 2. This committee shall be comprised of members of the association elected by the association in a secret ballot election, except that the association may contract with legal counsel who shall, at the discretion of the association, be eligible for membership on the committee.

Subd. 3. The production of the agricultural commodity shall comprise a significant portion of the total producing operation of each committee member.

Subd. 4. Members who have any quantity contracted with a producer owned and controlled processing cooperative are not eligible to serve on a marketing and bargaining committee for such a commodity.

[1973 c 736 s 5]

17.696 UNFAIR PRACTICES OF HANDLERS AND ASSOCIATIONS. Subdivision 1. Producers of agricultural commodities are free to join together voluntarily in associations as authorized by law without interference by handlers. A handler shall not engage in any of the following practices, defined as unfair practices:

(a) To coerce a producer in the exercise of his right to join and belong to or to refrain from joining or belonging to an association or to refuse to deal with a producer because of the exercise of his right to join and belong to an association.

(b) To discriminate against a producer with respect to price, quantity, quality or other terms of purchase, acquisition or other handling of agricultural products because of his membership in or contract with an association.

(c) To coerce or intimidate a producer to breach, cancel or terminate a membership agreement or marketing contract with an association or a contract with a handler.

(d) To pay or loan money, give anything of value or offer any other inducement or reward to a producer for refusing or ceasing to belong to an association.

(e) To make or circulate unsubstantiated reports about the finances, management or activities of associations or other handlers.

(f) To conspire, combine, agree or arrange with any other person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.701.

(g) To refuse to bargain with an association with whom the handler has had prior dealings or with an association whose producers in the bargaining units have had dealings with the handler prior to July 1, 1973.

Subd. 2. An association shall not engage nor permit an employee or agent to engage in the following practices, defined as unfair practices:

(a) To enter into a contract which discriminates against a producer represented by that association.

(b) To act in a manner contrary to the bylaws of the association.

(c) To coerce or intimidate a handler to breach, cancel or terminate an agreement or marketing contract with an association or a contract with a producer.

(d) To make or circulate unsubstantiated reports about the finances, management or activities of other associations or handlers.

(e) To conspire, combine, agree or arrange with another person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.701.

[1973 c 736 s 6]

17.697 BARGAINING DEFINED; NOTICE OF COMMENCEMENT OF NEGOTIATIONS; MEDIATION PROCEDURE. Subdivision 1. As used in sections 17.691 to 17.701, "bargaining" means the mutual obligation of a handler and an association or their designated representatives to meet at reasonable times and confer and negotiate in good faith. Negotiations may include all terms relative to trading between handlers and producers of the agricultural commodity such as:

(a) prices and terms of sale

(b) quality specifications

(c) quantity to be marketed by acreage or weight

(d) transactions involving products and services utilized by one party and provided by the other party

(e) check off procedures pursuant to assessments levied by the association, not to exceed one-half of one percent of the gross value of the producers annual production contract are collected by handlers from proceeds to producers within the bargaining unit and paid to the association.

Subd. 2. The association shall notify the commissioner of the commencement of negotiations.

Subd. 3. (a) If no agreement is reached at the expiration of ten days after service of such notice to the commissioner, the association may, at any time thereafter, petition the commissioner to assume supervision over the dispute, except as provided for by clause (e).

(b) The commissioner shall then set a time and place for conference with the parties to present facts representing each party's case and hearing arguments. The commissioner shall take such steps, in accordance with rules promulgated under sections 17.691 to 17.701, as he deems expedient to affect a voluntary, amicable and expeditious adjustment and settlement of the differences between the handler and the association.

(c) At any time prior to 15 days before the first day of the marketing year in dispute, if an agreement on the issues in dispute between the association and the handler has not been reached, the handler may elect not to purchase, directly or indirectly, any quantity of the agriculture commodity produced by the association during that marketing year; or, the affected producers may elect not to sell, directly or indirectly, any quantity of the agricultural commodity produced by the association during that marketing year; or, the affected producers may elect not to sell, directly or indirectly, any quantity of the agricultural commodity to the handler during that marketing year.

(d) If either party makes an election, the other party is not under an obligation to continue bargaining with the party so electing for terms during the marketing period in dispute. Both parties may, however, engage immediately in bargaining for the following marketing year.

(e) If the petition requesting the commissioner to assume supervision over a dispute is presented 15 days or less before the marketing year in dispute, then the commissioner shall exercise his discretionary authority, according to rules promulgated under sections 17.691 to 17.701, in determining which disputes are arbitrable before the start of the marketing year in dispute.

[1973 c 736 s 7; 1975 c 88 s 3]

17.698 BASIS FOR MEDIATION AND BARGAINING DECISIONS. All decisions of mediation and bargaining which result from section 17.697 shall be based upon the following factors:

(a) Prices or projected prices for the agricultural commodity paid by the competing handlers in the market area or competing market areas.

(b) Amount of the commodity produced or projections of production in the production area or competing marketing areas.

(c) Relationship between the quantity produced and the quantity handled by the handler.

(d) The producers cost of production including the cost which would be involved in paying farm labor a fair wage rate and providing them with adequate housing.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) The impact of the award on the competitive position of the handler in the marketing area or competing areas.

(g) The impact of the award on the competitive position of the agricultural commodity in relationship to competing commodities.

(h) A fair return on investment.

(i) Kind, quality or grade of the commodity involved.

(j) Stipulation of the parties.

(k) Such other factors which are normally or traditionally taken into consideration in determining prices, quality, quantity and the costs of other services involved.

[1973 c 736 s 8]

17.699 TIME LIMIT UPON DECISIONS. The commissioner shall announce his findings of fact and decisions in all cases in which he has assumed supervision during the year previous to the marketing year in dispute by the fifteenth day of the marketing year in dispute. To expedite his decisions, the commissioner may engage the ser-

vices of the bureau of mediation services, whose recommendations he shall consider in his final determination.

[1973 c 736 s 9]

17.70 VIOLATION PROCEDURE. Subdivision 1. For the purpose of sections 17.691 to 17.701, the commissioner may receive complaints with respect to violations or threatened violations. The commissioner may make all necessary investigations, examinations or inspections of any violation or threatened violation specified in the sworn complaint filed with the commissioner. If, upon such investigation, the commissioner considers that there is reasonable cause to believe that the person charged has committed a practice in violation of sections 17.691 to 17.701, the commissioner shall issue and cause to be served a complaint upon the person. The complaint shall summon the person to a hearing before the commissioner at the time and place fixed.

Subd. 2. If the commissioner determines that the person complained of has committed a practice in violation of sections 17.691 to 17.701, he shall state his findings of fact and shall issue and cause to be served on the person an order requiring him to cease the violation and shall order further affirmative action as will effectuate the policies of sections 17.691 to 17.701.

Subd. 3. If the commissioner is of the opinion that the person complained of has not committed a practice in violation of sections 17.691 to 17.701, he shall make his findings of fact and issue an order dismissing the complaint.

Subd. 4. Until the record in a case has been filed in a court the commissioner may, at any time upon reasonable notice and in such manner as he deems proper, modify or set aside, in whole or in part, any finding or order he has made or issued, with jurisdiction for such a change specified in additional findings of fact.

Subd. 5. The commissioner may request the attorney general of the state of Minnesota to seek the appropriate temporary relief or restraining order of injunction in district court to insure the enforcement of his findings.

[1973 c 736 s 10]

17.701 RULES. The commissioner may promulgate rules necessary for the administration of sections 17.691 to 17.701 in accordance with sections 17.691 to 17.701 and chapter 15.

[1973 c 736 s 11]

FERTILIZER AND SOIL CONDITIONER LAW

17.711 CITATION. Sections 17.711 to 17.729 shall be known and cited as the "Minnesota fertilizer and soil conditioner law."

[1971 c 638 s 1]

17.712 ENFORCING OFFICIAL. The commissioner of agriculture shall administer sections 17.711 to 17.729.

[1971 c 638 s 2]

17.713 DEFINITIONS. Subdivision 1. When used in sections 17.711 to 17.729 the terms defined in this section have the meanings given them.

Subd. 2. "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizers or with soil conditioner materials.

Subd. 3. "Bulk fertilizer" means any commercial fertilizer material distributed in a nonpackaged form.

Subd. 4. "Commercial fertilizer" includes both mixed fertilizer or fertilizer materials.

Subd. 5. "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barters, or otherwise supplies commercial fertilizer or soil conditioner in this state.

Subd. 6. "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant food nutrient, or any compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

Subd. 7. "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis; provided, however, that fertilizer materials, bone meals, manures, and similar raw materials may be guaranteed in fractional units.

Subd. 8. "Guaranteed analysis": (1) Until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of paragraph 2 of this subdivision, the term "guaranteed analysis" shall mean the percentage of plant nutrient content, if claimed, in the following order:

- (a) Total nitrogenpercent
- Available phosphoric acidpercent
- Soluble potashpercent

(b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage and other organic phosphate materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the commissioner. The guarantees for such other nutrients shall be expressed in the elemental form. The sources of such other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analyses in accord with the methods and regulations prescribed by the commissioner.

(d) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when required by regulation.

(2) When the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he may require thereafter that the "guaranteed analysis" shall be in the following form:

- Total nitrogenpercent
- Available phosphoruspercent
- Soluble potassiumpercent

The effective date of said regulation shall be not less than one year following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

Subd. 9. "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis statement.

Subd. 10. "Mixed fertilizer" means any combination or mixture of fertilizer material designed for use or claimed to have value in promoting plant growth, with or without inert materials.

Subd. 11. "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizer materials.

Subd. 12. "Official sample" means any sample of commercial fertilizer or soil conditioner taken by the commissioner or his agent according to methods prescribed by sections 17.711 to 17.729.

Subd. 13. "Organic" when applied to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition whose water insoluble nitrogen content is at least 60 percent of the total nitrogen guaranteed.

Subd. 14. "Percent" or "percentage" means the percentage by weight.

Subd. 15. "Person" includes individuals, partnerships, associations, firms, corporations, companies, and societies.

Subd. 16. "Registrant" means the person who registers commercial fertilizer material or soil conditioner under the provisions of sections 17.711 to 17.729.

Subd. 17. "Sell," when applied to commercial fertilizer or soil conditioner, includes:

- (1) The act of selling, transferring ownership;
- (2) The offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) The possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) The storing, carrying and handling in aid of traffic therein, whether done in person or through an agent, employee or others; and
- (5) Receiving, accepting, and holding of consignment for sale.

Subd. 18. "Small package fertilizer" means fertilizer material sold exclusively in packages of 25 pounds or less.

Subd. 19. "Soil conditioner" means any aggregant or additive or any synthetic organic chemical substances, or chemically or physically modified natural substances, or naturally occurring substance, or manufacturing by-products, mixed or unmixed, which are represented as having a primary function of forming or stabilizing soil aggregants in soil to which it is to be applied and thereby improving the resistance of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, or otherwise favorably modifying its structural or physical properties.

Subd. 20. "Specialty fertilizer" means any commercial fertilizer, distributed primarily for use on crops grown for noncommercial purposes such as gardens, lawns, shrubs, golf courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include fertilizers used for research or experimental purposes.

Subd. 21. "Ton" means a net ton of 2,000 pounds avoirdupois.

Subd. 22. "Plant food" means any one of the following plant nutrients or any additional plant nutrient which might be generally recognized as beneficial for plant growth: Nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

Subd. 23. "Label" means the display of all written, printed, or graphic matter upon the immediate container or statement accompanying a commercial fertilizer or soil conditioner.

Subd. 24. "Labeling" means all written, printed or graphic matter, upon or accompanying any commercial fertilizer, or soil conditioner, or advertisements, brochures, posters, television, radio, or other announcements used in promoting the sale of such commercial fertilizer or soil conditioner.

[1971 c 638 s 3]

17.714 REGISTRATION; RENEWAL. Subdivision 1. Fertilizer brands and grades sold only as small package items or represented and labeled as specialty fertilizer; and soil conditioners sold with recommendations for commercial agricultural use, shall be registered at the fee set forth in section 17.717, subdivision 2. Fees paid for registration made in this manner shall be in lieu of any other license or tonnage fees.

Subd. 2. The application for registration shall include the following information:

(a) For fertilizers:

- (1) The name and address of the registrant;
- (2) The brand and grade;
- (3) The guaranteed analysis as required by section 17.713, subdivision 8;
- (4) The sources from which nitrogen, phosphorus, potassium or other elements or materials are derived.

(b) For soil conditioners:

- (1) The name and address of the registrant;
- (2) The brand name;
- (3) The sources from which the ingredients used in the product are derived.

Subd. 3. Application for registration of a small package fertilizer or a specialty fertilizer or a soil conditioner shall be accompanied by a label or label facsimile of each product for which registration is requested.

Subd. 4. The commissioner may require a person applying for a license or registration to manufacture or distribute a product for commercial agricultural use to submit authentic experimental evidence, or university research data, to substantiate the claims made for the product.

Subd. 5. Each registration is effective until January 1 next following the date of issuance or approval. A product registration shall not be transferrable from one person to another or from the ownership to whom issued to another ownership; or from one location to another location.

[1971 c 638 s 4]

17.715 LICENSE, RENEWAL. Subdivision 1. A person who manufactures, blends, mixes, or otherwise manipulates commercial fertilizer material shall obtain license from the commissioner for each fixed location within the state where these operations are performed.

Subd. 2. One license for all fixed locations of a firm which are located outside of the state shall be obtained from the commissioner.

Subd. 3. A distributor who manufactures, blends, mixes, or otherwise manipulates commercial fertilizer material by means of a mobile mechanical unit, shall obtain a license for each mobile mechanical unit from the commissioner.

Subd. 4. Each license is effective until January 1 next following the date of its issuance or approval. A license shall not be transferrable from one person to another, or from the ownership to whom issued to another ownership, or from one location to another location.

Subd. 5. The license shall be posted in a conspicuous place in each fixed location in this state and shall accompany each mobile mechanical unit operated in this state.

[1971 c 638 s 5]

17.716 LABELING; GUARANTEED ANALYSIS. Subdivision 1. Any commercial fertilizer offered for sale or sold or distributed in this state in bags, or other containers, shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information: (a) The net weight; (b) The brand and grade. When the commercial fertilizer material is used solely for agricultural purposes, inclusion of the grade on the tag or label, shall be optional providing the guaranteed analysis statement is shown in the complete form as in section 17.713, subdivision 8; (c) The guaranteed analysis; (d) The name and address of the guarantor. Such information, if not appearing on the face or display side of the container in a conspicuous form, shall appear on the upper one third of the side of the container, or on the upper end of the container or shall be printed on tags affixed conspicuously to the upper end of the container.

Subd. 2. Any distributor who blends or mixes fertilizer materials to a customer's order without a guaranteed analysis of the final mixture shall furnish each and every purchaser, in written or printed form, an invoice or delivery ticket showing the net weight and guaranteed analysis of each and every one of the materials used in the mixture, which shall accompany the delivery.

Subd. 3. If transported or distributed in bulk, the data in written or printed form, as required by subdivision 1 shall accompany each delivery and be supplied to each and every purchaser at time of delivery.

Subd. 4. The plant food content of a given lot must remain uniform.

[1971 c 638 s 6]

17.717 LICENSE, INSPECTION AND REGISTRATION FEES. Subdivision 1. Each application for a license from each fixed location within the state shall be accompanied by a fee of \$50. A fee of \$50 shall accompany the application for a license for all fixed locations of each firm outside of the state. In the case of mobile mechani-

cal units, each unit owned and operated by any one distributor shall be licensed at a rate of \$50 for the first unit and \$25 for each additional mobile mechanical unit.

Subd. 2. License and registration fees submitted in the period following July 1, 1971 and continuing through December 30, 1971, shall be at one and one-half times the rates as specified in subdivisions 1, 3, and 4 and shall extend such license registration to December 31, 1972. New licenses and registration applications received after January 1, 1972, shall be at the rates specified in subdivisions 1, 3, and 4 and shall expire on December 30 following date of such application.

Subd. 3. Each application for registration of a commercial fertilizer material sold as a small package or as a specialty fertilizer shall be accompanied by a registration and inspection fee of \$50 for each brand and grade to be sold or distributed. This shall be in accordance with the provisions of section 17.714, subdivision 1.

Subd. 4. Each application for registration of a soil conditioner shall be accompanied by a registration and inspection fee of \$50 for each brand sold or distributed. This shall be in accordance with the provisions of section 17.714, subdivision 1.

Subd. 5. There shall be paid to the commissioner for all commercial fertilizers offered for sale, sold, or distributed in this state an inspection fee at the rate of ten cents per ton. Products sold to manufacturers or exchanged between them are hereby exempted from the fee imposed by this subdivision when used exclusively for manufacturing purposes. Inspection fees of products registered under provisions of subdivision 2, are also exempted.

Subd. 6. Fees collected shall be deposited in the state treasury to the credit of the general fund. Costs of inspection, sampling and analysis and other services shall be paid from the appropriations made to the department of agriculture.

[1971 c 638 s 7]

17.718 TONNAGE REPORT. Subdivision 1. Each licensed distributor of commercial fertilizer under section 17.717, subdivision 1, and each registrant of commercial fertilizer or soil conditioner under section 17.717, subdivision 2, shall file with the commissioner on forms furnished by the commissioner, a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of each grade of commercial fertilizer or soil conditioner distributed in this state during such reporting period. The report shall be due on or before the 30th of the month following the close of each reporting period of each calendar year. The inspection fee at the rate stated in section 17.717, subdivisions 3 to 5 shall accompany the statement. For the tonnage report that is not filed or the payment of inspection fees that is not made within 30 days after the end of the reporting period, a penalty of ten percent of the amount due, with a minimum penalty of \$10, shall be assessed against the licensee or registrant, and the total amount of fees due, plus penalty, shall constitute a debt and may be recovered in a civil action against the licensee or registrant. The assessment of this penalty shall not prevent the department from taking other actions as provided in this chapter. The commissioner may by regulation require additional reports for the purpose of gathering statistical data relating to fertilizer and soil conditioner distribution in the state.

Subd. 2. When more than one person is involved in the distribution of a commercial fertilizer, the last person licensed or who has the fertilizer registered and who distributes to a nonlicensed or nonregistrant dealer or consumer is responsible for the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.

Subd. 3. Submission of each tonnage report shall also be authority for the commissioner or his authorized agent's permission to verify the records upon which such statement of tonnage is based.

[1971 c 638 s 8; 1973 c 381 s 1]

17.719 INSPECTION, SAMPLING, ANALYSIS. Subdivision 1. The commissioner or his authorized agent shall sample, inspect, make analysis of, and test commercial fertilizers and soil conditioners offered for sale, sold, or distributed within this state at such time and place and to such an extent as he may deem necessary to determine whether such commercial fertilizers and soil conditioners are in compliance with the provisions of sections 17.711 to 17.729, and may obtain such additional information as he may deem advisable. The commissioner, individually, or through his agent, is authorized to enter upon any public or private premises during regular busi-

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ness hours in order to have access to commercial fertilizers and soil conditioners subject to the provisions of sections 17.711 to 17.729 and the rules and regulations pertaining thereto.

Subd. 2. An official fertilizer or soil conditioner sample shall be one drawn from a lot or shipment of fertilizer or soil conditioner sold or exposed for sale in this state in the manner prescribed by the commissioner. In sampling a lot of commercial fertilizer or soil conditioner registered under section 17.714, subdivision 1, a single package may constitute the official sample.

Subd. 3. The methods of analysis shall be those adopted by the commissioner from published sources such as those of the association of official analytical chemists. [1971 c 638 s 9]

17.72 FERTILIZER OR SOIL CONDITIONER-PESTICIDE MIXTURE. Each distributor who blends, mixes, or otherwise adds pesticides to commercial fertilizer materials or soil conditioners, shall be licensed in accordance with section 17.715, and shall register such mixture in accordance with the provisions of sections 24.069 to 24.077. For reasons of this section, if registrant meets the provisions of sections 24.069 to 24.077, they shall be exempt from registration provision for custom blending with the use of pesticides.

[1971 c 638 s 10]

17.721 PLANT FOOD CONTENT. Subdivision 1. While the "guaranteed analysis" is as defined in section 17.713, subdivision 8, clause (1), no nitrogen product containing less than 18 percent total nitrogen, no superphosphate containing less than 18 percent available phosphoric acid, nor any mixed dry fertilizer in which the sum of guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 24 percent shall be offered for sale, sold or distributed in this state. For all mixed fertilizers containing one-fourth or more of their nitrogen in water-insoluble form of plant or animal origin, the total nitrogen, available phosphoric acid and soluble potash shall not total less than 18 percent. If guarantees are as provided in section 17.713, subdivision 8, clause (2), the appropriate conversions shall be made to available phosphorus and soluble potassium.

Subd. 2. The provisions of subdivision 1 shall not apply to specialty fertilizer which is clearly labeled for noncommercial use.

[1971 c 638 s 11]

17.722 FALSE OR MISLEADING STATEMENTS. The commercial fertilizer or soil conditioner is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer or soil conditioner are disseminated in any manner or by any means. It is unlawful to distribute a misbranded fertilizer or soil conditioner.

[1971 c 638 s 12]

17.723 ADULTERATION. No person shall distribute an adulterated fertilizer or soil conditioner product. A commercial fertilizer or soil conditioner shall be deemed to be adulterated: (a) If it contains any deleterious or harmful ingredient in sufficient amount to render it injurious to plant life when applied in accordance with directions for use on the label; or (b) If its composition falls below or differs from that which it is purported to possess by its labeling; or (c) If it contains unwanted crop seed or weed seed.

[1971 c 638 s 13]

17.724 [Repealed, 1975 c 227 s 10]

17.725 RULES AND REGULATIONS. Subdivision 1. The commissioner is authorized to prescribe and, after public hearing following due public notice, adopt such rules and regulations relating to the manufacture, sale, distribution, tonnage, reporting, labeling, and handling of commercial fertilizers and soil conditioners or other soil additives or amendments as he may deem necessary to carry into effect the full intent and meaning of sections 17.711 to 17.729.

Subd. 2. The commissioner may make and publish regulations governing the labeling and distribution of liming materials as are sold for agricultural purposes, including: Limestone (carbonates), sulfates, slags (silicates), burned lime (oxides), and hydrated lime (hydroxides). Such products shall not, however, be deemed fertilizers

subject to the registration and tonnage fees stated in sections 17.711 to 17.729.

Subd. 3. The commissioner may adopt regulations establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. Such regulations shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of such regulations will include but not be limited to findings of the University of Minnesota soil testing laboratory.

[1971 c 638 s 15]

17.726 "STOP SALE" ORDERS. The commissioner shall issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer or soil conditioner when the commissioner finds the commercial fertilizer or soil conditioner is being offered or exposed for sale in violation of any of the provisions of sections 17.711 to 17.729 or any regulation issued hereunder. The owner or custodian to whom the order is addressed shall hold the commercial fertilizer or soil conditioner until the law has been complied with and the commercial fertilizer or soil conditioner is released in writing by the commissioner or the violation has been otherwise legally disposed of by written authority.

[1971 c 638 s 16]

17.727 SEIZURE, CONDEMNATION, AND SALE. Any lot of commercial fertilizer or soil conditioner not in compliance with the provisions of sections 17.711 to 17.729 shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the commercial fertilizer or soil conditioner is located. In the event the court finds the commercial fertilizer or soil conditioner to be in violation of sections 17.711 to 17.729 and orders the condemnation of the commercial fertilizer or soil conditioner, it shall be disposed of in any manner consistent with the character of the commercial fertilizer or soil conditioner and the laws of this state. In no instance, however, shall the disposition of this commercial fertilizer or soil conditioner be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer or soil conditioner under supervision of the commissioner to bring it into compliance with sections 17.711 to 17.729.

[1971 c 638 s 17]

17.728 VIOLATIONS; PENALTY. Subdivision 1. The commissioner may cancel the registration of any commercial fertilizer or soil conditioner or refuse to register any brand of commercial fertilizer or soil conditioner as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of sections 17.711 to 17.729 or any rules and regulations promulgated thereunder. No registration shall be revoked until the registrant has been given opportunity for a hearing by the commissioner.

Subd. 2. The commissioner may cancel the license as herein provided upon satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this section. No license shall be revoked until the licensee has been given opportunity for a hearing by the commissioner.

Subd. 3. Nothing in sections 17.711 to 17.729 shall be construed as requiring the commissioner or his representative to (1) report for prosecution or (2) institute seizure proceedings or (3) issue a withdrawal from distribution (stop sale) order, as a result of minor violations of sections 17.711 to 17.729 or when he believes the public interest will be best served by a suitable notice of warning in writing.

Subd. 4. Any person convicted of violating any of the provisions of sections 17.711 to 17.729 or any rule or regulation issued hereunder, is guilty of a misdemeanor.

Subd. 5. Each county attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in the district court or other court of competent jurisdiction without delay.

[1971 c 638 s 18]

17.729 EXCHANGE BETWEEN MANUFACTURERS. Nothing in sections 17.711 to 17.729 shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil conditioners to each other by importers, manufacturers, or manipulators who mix fertilizer materials or soil conditioners for sale or as preventing the free and unrestricted shipments of commercial fertilizers or soil conditioners to manufacturers or manipulators who are licensed or have registered their brands as required by the provisions of sections 17.711 to 17.729.

[1971 c 638 s 19]