

## Agriculture

## CHAPTER 17

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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, who shall be appointed by the governor under the provisions of section 15.06. Before entering upon the duties of office, the commissioner shall take the oath required of state officials. The commissioner may appoint a deputy commissioner.

**History:** (6023, 53-27 1/2) 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; 1986 c 444

### 17.013 DELEGATIONS OF POWERS TO DEPUTY COMMISSIONER.

The commissioner of agriculture may designate the deputy commissioner of agriculture to act in the commissioner's stead as a member, with all the commissioner's 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.

**History:** 1957 c 267 s 1; 1961 c 113 s 1; 1986 c 444

### 17.02 [Repealed, 1961 c 128 s 20]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 the commissioner determines that the public necessity or the welfare of the community requires such markets, if 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, 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 may 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 the commissioner's judgment be most effective.

**Subd. 5.** [Repealed, 1987 c 312 art 1 s 25; 1987 c 396 art 10 s 7]

**Subd. 6. Cooperation with Minnesota trade division.** The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

**Subd. 7. Agricultural diversification.** The commissioner shall establish a program of agricultural diversification. The commissioner must assist the horticultural industry, help producers diversify farming operations, and coordinate state agency efforts regarding agricultural diversification, after consulting with farm groups, the University of Minnesota, and applicable institutions of higher learning. The commissioner shall report to the governor and legislature annually on activities and actions that should be taken in these matters.

**Subd. 7a. Nontraditional agriculture; promotion.** (a) The commissioner shall devise means of advancing the production and marketing of nontraditional agricultural products of the state. The commissioner shall also seek the cooperation and involvement of every department or agency of the state, and such public and nonpublic organizations as the commissioner deems appropriate, for the promotion of nontraditional agricultural products.

(b) The production and marketing of nontraditional agricultural products are considered agricultural pursuits.

(c) Except as otherwise provided in law, the commissioner may adopt appropriate rules concerning health standards for nontraditional agriculture.

(d) Except as otherwise provided in law, the slaughter of all meat producing animals, fowl, or fish that are nontraditional agriculture intended for sale in commercial outlets must occur at an inspected slaughterhouse.

(e) Except as otherwise provided in law, it is the responsibility of an owner to take all reasonable actions to maintain the nontraditional agriculture on property owned or leased by the owner, including the construction of fences, enclosures, or other barriers, and housing of a suitable design.

(f) For purposes of this subdivision, "nontraditional agriculture" and "nontraditional agricultural products" includes but is not limited to aquaculture as defined in section 17.47, subdivision 2, and the production of animals domesticated from wild stock, either native or nonnative, that are kept in confinement by the owner.

**Subd. 8. Cooperation with Minnesota trade office.** The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade office shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office have primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture.

**Subd. 9. Farm crisis assistance fees; liability.** (a) The department may charge a fee for farm crisis assistance services it provides to persons outside of the department.

(b) The state is not liable for the actions of persons under contract with the department who provide farm crisis assistance services as part of their contractual duties. Persons who provide farm crisis assistance are not subject to liability for their actions that are within the scope of their contract. The immunity from liability in this subdivision is in addition to and not a limitation of immunity otherwise accorded to the state and its contractors under law.

(c) Fees collected by the department under this subdivision must be deposited in the general fund.

**Subd. 10. Gifts; publication fees; advertising; appropriation.** (a) The commissioner may accept for and on behalf of the state any gift, bequest, devise, grant, or interest in money or personal property of any kind tendered to the state for any purpose pertaining to the activities of the department of agriculture or any of its divisions.

(b) The commissioner may charge a fee for reports, publications, or other promotional or informational material produced by the department of agriculture. The commissioner may solicit and accept advertising revenue for any departmental publications or promotional materials.

(c) The fees collected by the commissioner under this section are to recover all or part of the costs of providing services for which the fees are paid. These fees are not subject to chapter 14 or sections 16A.128 and 16A.1281.

(d) Money received by the commissioner for these activities may be credited to one or more special accounts in the state treasury. Money in those special accounts is annually appropriated to the commissioner to provide the services for which the money was received.

*History: (6024,6027) 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; 1984 c 654 art 2 s 66; 1986 c 444; 1987 c 312 art 1 s 11; 1987 c 396 art 8 s 1; art 10 s 1; 1992 c 513 art 2 s 12,13; 1994 c 642 s 1*

**17.031** [Repealed, 1983 c 300 s 28]

**17.032** [Repealed, 1983 c 300 s 28]

## **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 the commissioner is

satisfied that the laws of the state, relative to any laws placed within the commissioner's jurisdiction, have been violated, to cause to be instituted, in the commissioner's 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, the commissioner 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 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.

**History:** (6025,6244) 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; 1986 c 444

#### **17.038 STATISTICAL SERVICES ACCOUNT.**

The statistical services account is established in the state treasury. All payments for statistical services performed by the agricultural statistics division of the department of agriculture must be deposited in the state treasury and credited to the statistical services account. The money in the account is appropriated to the commissioner of agriculture to administer the programs of the agricultural statistics division.

**History:** 1Sp1985 c 10 s 42

#### **17.039 ETHICAL GUIDELINES FOR FARM ADVOCATES.**

The commissioner of agriculture shall establish not later than August 1, 1986, ethical guidelines for farm advocates who perform the duties of an advocate. The ethical guidelines must be part of the contract with each advocate.

**History:** 1986 c 398 art 22 s 1

#### **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.

**History:** (3793) 1921 c 495 s 6; 1961 c 128 s 2

#### **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.

**History:** (6026) 1919 c 444 s 4; 1921 c 78 s 4; 1923 c 261 s 4

**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, rules 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.

*History: 1973 c 745 s 1; 1985 c 248 s 70*

**17.05** [Repealed, 1955 c 92 s 3]

**17.06 EXPENSES.**

The expenses of the commissioner and 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.

*History: (3795) 1919 c 316 s 2; 1921 c 520 s 2; 1986 c 444*

**17.07 APPROVAL OF EXPENDITURES.**

No expenditure of money for any purpose shall be made from any state appropriation to any agricultural, horticultural, florist, dairy farmer'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.

*History: (53-27) 1925 c 426 art 7 s 2; 1977 c 121 s 1; 1986 c 444*

**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 the department, with such recommendations and suggestions as the interests of agriculture and foods and marketing conditions require, and shall report, on or before November 15 of each even-numbered year, concerning official acts, showing official receipts and disbursements, and may issue public bulletins of information from time to time.

*History: (6028) 1919 c 444 s 8; 1921 c 78 s 7; 1923 c 261 s 6; 1974 c 406 s 58; 1986 c 444*

**17.101 PROMOTIONAL ACTIVITIES.**

Subdivision 1. **Departmental duties.** For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner shall encourage and promote the marketing of these products by means of:

(a) advertising Minnesota agricultural products;

- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;
- (f) assessing and developing national and international markets for Minnesota agricultural products;
- (g) studying the conversion of raw agricultural products to manufactured products including ethanol;
- (h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
- (i) assisting Minnesota agricultural businesses desiring to sell their products; and
- (j) other activities the commissioner deems appropriate to promote Minnesota agricultural products, provided that the activities do not duplicate programs or services provided by the Minnesota trade division or the Minnesota world trade center corporation.

**Subd. 2. Agricultural development grants.** In order to carry out the duties in subdivision 1, the commissioner, in addition to whatever other resources the department may commit, shall make grants and enter into contracts to fulfill the obligations of subdivision 1. The commissioner may contract with, among others, agricultural commodity organizations and agriculture related businesses to fulfill the duties. The commissioner shall make permanent or emergency rules for the administration of these grants and contracts. The rules shall specify at a minimum:

- (a) eligibility criteria;
- (b) application procedures;
- (c) provisions for application review and project approval;
- (d) provisions for program monitoring and review for all approved grants and contracts; and
- (e) other provisions the commissioner finds necessary.

Contracts entered into by the commissioner pursuant to this subdivision shall not exceed 75 percent of the cost of the project supported by the commissioner's grant. In any biennium, no organization shall receive more than \$70,000 in grants from the commissioner.

**Subd. 3. Audits.** The books, records, documents, and accounting procedures and practices of any organization receiving a grant from the commissioner under the provisions of subdivision 2 shall be subject to examination by the department. The commissioner may prescribe uniform methods of accounting to be used by grant recipients.

**Subd. 4. Advisory group.** The commissioner may establish an ad hoc advisory group to assist in evaluating grant requests made pursuant to subdivision 2.

**History:** 1963 c 486 s 1; 1983 c 293 s 29; 1984 c 640 s 32; 1986 c 444; 1987 c 312 art 1 s 12; 1987 c 396 art 10 s 2

### 17.1015 PROMOTIONAL EXPENDITURES.

In order to accomplish the purposes of section 17.101, the commissioner may participate jointly with private persons in appropriate programs and projects and may enter into contracts to carry out those programs and projects. The contracts may not include the acquisition of land or buildings and are not subject to the provisions of chapter 16 relating to competitive bidding.

The commissioner may spend money appropriated for the purposes of section 17.101, and expenditures made pursuant to section 17.101 for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

**History:** 1983 c 300 s 1

**17.102 MINNESOTA GROWN LABEL.**

Subdivision 1. **Establishment and use of label.** (a) The commissioner shall establish a "Minnesota grown" logo or labeling statement for use in identifying agricultural products that are grown, processed, or manufactured in this state. The commissioner may develop labeling statements that apply to specific marketing or promotional needs. One version of a labeling statement must identify food products certified as organically grown in this state. The Minnesota grown logo or labeling statement may be used on raw agricultural products only if 80 percent or more of the agricultural product is produced in this state.

(b) The Minnesota grown logo or labeling statement may not be used without a license from the commissioner except that wholesalers and retailers may use the Minnesota grown logo and labeling statement for displaying and advertising products that qualify for use of the Minnesota grown logo or labeling statement.

Subd. 2. **Label does not replace other requirements.** The logo or labeling statement does not supersede or replace any federal label or grade standard that is required by law.

Subd. 3. **License.** A person may not use the Minnesota grown logo or labeling without an annual license from the commissioner. The commissioner shall issue licenses for a fee of \$5. The commissioner shall charge a late fee of \$10 for renewal of a license that has expired.

Subd. 4. **Minnesota grown account.** The Minnesota grown account is established as an account in the state treasury. License fee receipts and penalties collected under this section must be deposited in the state treasury and credited to the Minnesota grown account. The money in the account is continuously appropriated to the commissioner to implement and enforce this section and to promote the Minnesota grown logo and labeling.

Subd. 5. **Penalty.** A person who is required to have a license and uses the Minnesota grown logo or labeling without a license after being notified by the commissioner that a license is required is subject to a civil penalty up to \$1,000.

Subd. 6. **Rules.** The commissioner shall promulgate rules authorizing and licensing the use of the logo or labeling statement.

*History: 1979 c 36 s 1; 1987 c 396 art 6 s 1; 1988 c 688 art 4 s 1*

**17.103** [Renumbered 116J.9671]

**17.104** [Renumbered 116J.9672]

**17.105** [Renumbered 116J.9673]

**17.106** [Repealed, 1984 c 654 art 2 s 155]

**17.107 FARM EQUIPMENT SAFETY AND MAINTENANCE PROGRAM FOR YOUTH.**

Subdivision 1. **Program coordination.** The Minnesota extension service, in cooperation with the commissioner of agriculture, shall implement a voluntary farm equipment safety program for training and certifying rural youth. The program must be designed to teach young operators to safely maintain and operate tractors and other farm implements. The extension service shall maintain records adequate to verify the names and addresses of students certified by the safety program.

Subd. 2. **Instructor development.** Not later than August 1, 1991, the Minnesota extension service shall design a program for the recruitment and development of qualified instructors for the youth farm equipment safety program created under subdivision 1.

Subd. 3. **Payment to instructors.** From within public or nonpublic funds made available for the youth farm equipment safety program created under subdivision 1, the commissioner of agriculture may make payments of \$25 per student to qualified instructors on a per-student basis.

*History: 1991 c 254 art 3 s 1*



**17.108 TROPHIC STATE LABELING.**

Subdivision 1. **Certification of trophic state.** The commissioner, in consultation with the commissioners of the pollution control agency and natural resources, shall annually certify the trophic state of the waters used for aquatic farming. Aquatic farming waters maintained in a trophic state equal or better than:

(1) 25 percent of the lakes in this state over 100 acres shall be certified as "pristine waters";

(2) 50 percent of the lakes in this state over 100 acres shall be certified as "pure, clean, or fresh waters"; and

(3) 75 percent of the lakes in this state over 100 acres shall be certified as "natural waters."

Subd. 2. **Use of terms.** A person may only use the terms "natural," "pure," "clean," "fresh," or "pristine" in describing waters used for aquaculture on labeling, advertising, or other material if the waters from which the products were raised are certified accordingly under subdivision 1. The terms may be used in conjunction with other Minnesota grown labeling.

*History: 1991 c 309 s 2*

**17.109 MINNESOTA GROWN MATCHING ACCOUNT.**

Subdivision 1. **Establishment.** The Minnesota grown matching account is established as a separate account in the state treasury. The account shall be administered by the commissioner of agriculture as provided in this section.

Subd. 2. **Funding sources.** The Minnesota grown matching account shall consist of contributions from private sources and appropriations.

Subd. 3. **Appropriations must be matched by private funds.** Appropriations to the Minnesota grown matching account may be expended only to the extent that they are matched with contributions to the account from private sources on a basis of \$4 of the appropriation to each \$1 of private contributions. Matching funds are not available after the appropriation is encumbered.

Subd. 4. **Expenditures.** The amount in the Minnesota grown matching account that is matched by private contributions and the private contributions are appropriated to the commissioner of agriculture for promotion of products using the Minnesota grown logo and labeling.

*History: 1991 c 254 art 3 s 29*

**17.11** [Repealed, 1955 c 92 s 3]

**SUSTAINABLE AGRICULTURE****17.114 SUSTAINABLE AGRICULTURE.**

Subdivision 1. **Purpose.** To assure the viability of agriculture in this state, the commissioner shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of agriculture in this state. The department of agriculture is the lead state agency on sustainable agriculture and integrated pest management.

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Sustainable agriculture" represents the best aspects of traditional and modern agriculture by using a fundamental understanding of nature as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive and economical agriculture.

(b) "Integrated pest management" means use of a combination of approaches, incorporating the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keep pests below levels where they do economic damage.

**Subd. 3. Duties.** (a) The commissioner shall:

(1) establish a clearinghouse and provide information, appropriate educational opportunities and other assistance to individuals, producers, and groups about sustainable agricultural techniques, practices, and opportunities;

(2) survey producers and support services and organizations to determine information and research needs in the area of sustainable agricultural practices;

(3) demonstrate the on-farm applicability of sustainable agriculture practices to conditions in this state;

(4) coordinate the efforts of state agencies regarding activities relating to sustainable agriculture;

(5) direct the programs of the department so as to work toward the sustainability of agriculture in this state;

(6) inform agencies of how state or federal programs could utilize and support sustainable agriculture practices;

(7) work closely with farmers, the University of Minnesota, and other appropriate organizations to identify opportunities and needs as well as assure coordination and avoid duplication of state agency efforts regarding research, teaching, and extension work relating to sustainable agriculture; and

(8) report to the environmental quality board for review and then to the legislative water commission every even-numbered year.

(b) The report under paragraph (a), clause (8), must include:

(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;

(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of those programs;

(3) a description of specific actions the department of agriculture is taking in the area of sustainable agriculture;

(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and

(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.

**Subd. 3a. Sustainable agriculture advisory committee.** (a) The commissioner shall establish a sustainable agriculture advisory committee to assist in carrying out the duties in subdivision 3. The committee must include farmers, higher education representatives with expertise in sustainable agriculture, officials from other state agencies, representatives from the agricultural utilization research institute, private sector agricultural professionals, and representatives from environmental and agricultural interest groups. Terms, compensation, and removal of members are governed by section 15.059.

(b) This subdivision is repealed effective December 31, 1999.

**Subd. 4. Integrated pest management.** (a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.

(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public post-secondary institutions, Minnesota extension service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.

(c) The commissioner shall report to the environmental quality board for review and then to the legislative water commission every even-numbered year. The report shall be combined with the report required in subdivision 3.

**History:** 1989 c 326 art 2 s 2; 1994 c 557 s 4-7

### 17.115 SHARED SAVINGS LOAN PROGRAM.

**Subdivision 1. Establishment.** The commissioner shall establish a shared savings loan program to provide loans that enable farmers to adopt best management practices that emphasize sufficiency and self-sufficiency in agricultural inputs, including energy efficiency, reduction of petroleum and chemical inputs, and increasing the energy self-sufficiency of agricultural producers.

**Subd. 2. Loan criteria.** (a) The shared savings loan program must provide loans for purchase of new or used machinery, installation of equipment, and projects that reduce or make more efficient farm energy use. Eligible loan uses do not include seed, fertilizer, or fuel.

(b) Loans may not exceed \$15,000 per individual applying for a loan and may not exceed \$75,000 for loans to five or more individuals on joint projects. The loan repayment period may be up to seven years as determined by project cost and energy savings. The interest on the loans is six percent.

(c) Loans may only be made to residents of this state engaged in farming.

**Subd. 3. Awarding of loans.** (a) Applications for loans must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a loan review panel appointed by the commissioner. The loan review panel shall consist of two lenders with agricultural experience, two resident farmers of the state using sustainable agriculture methods, a farm management specialist, a representative from a post-secondary education institution, and a chair from the department.

(c) The loan review panel shall rank applications according to the following criteria:

(1) realize savings to the cost of agricultural production and project savings to repay the cost of the loan;

(2) reduce or make more efficient use of energy; and

(3) reduce production costs.

(d) A loan application must show that the loan can be repaid by the applicant.

(e) The commissioner must consider the recommendations of the loan review panel and may make loans for eligible projects. Priority must be given based on the amount of savings realized by adopting the practice implemented by the loan.

**Subd. 4. Administration; information dissemination.** The amount in the revolving loan account is appropriated to the commissioner to make loans under this section and administer the loan program. The interest on the money in the revolving loan account and the interest on loans repaid to the state may be spent by the commissioner for administrative expenses. The commissioner shall collect and disseminate information relating to projects for which loans are given under this section.

**History:** 1986 c 444; 1988 c 688 art 15 s 1

### 17.116 SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.

**Subdivision 1. Establishment.** The commissioner of agriculture shall establish a grant program for sustainable agriculture methods that demonstrates best management practices, including farm input reduction, farm energy efficiency, or usable on-farm energy production. The commissioner shall use the program to demonstrate and publicize the energy efficiency, environmental benefit, and profitability of sustainable agriculture techniques. The grants must fund demonstrations on farms of external input reduction techniques or farm scale energy production methods consistent with the program objectives.

**Subd. 2. Eligibility.** (a) Grants may only be made to farmers, educational institutions, or nonprofit organizations residing or located in the state for demonstrations on farms in the state.

(b) Grants may only be made for projects that show:

- (1) the ability to maximize direct or indirect energy savings or production;
- (2) a positive effect or reduced adverse effect on the environment; and
- (3) profitability for the individual farm.

**Subd. 3. Awarding of grants.** (a) Applications for grants must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a technical review panel appointed by the commissioner. The technical review panel shall consist of a soil scientist, an agronomist, a representative from a post-secondary educational institution, two resident farmers of the state using sustainable agriculture methods, and a chair from the department.

(c) The technical review panel shall rank applications according to the following criteria:

- (1) direct or indirect energy savings or production;
- (2) environmental benefit;
- (3) farm profitability;
- (4) the number of farms able to apply the techniques or the technology proposed;
- (5) the effectiveness of the project as a demonstration;
- (6) the immediate transferability of the project to farms; and
- (7) the ability of the project to accomplish its goals.

(d) The commissioner shall consider the recommendations of the technical review panel and may award grants for eligible projects. Priority must be given to applicants who are farmers or groups of farmers.

(e) Grants for eligible projects may not exceed \$25,000 unless the portion above \$25,000 is matched on an equal basis by the applicant's cash or in-kind land use contribution. Grant funding of projects may not exceed \$50,000 under this section, but applicants may utilize other funding sources. A portion of each grant must be targeted for public information activities of the project.

(f) A project may continue for up to three years. Multiyear projects must be reevaluated by the technical review panel and the commissioner before second or third year funding is approved. A project is limited to one grant for its funding.

(g) Only one grant under this section may be made per grantee.

**History:** 1986 c 444; 1988 c 688 art 15 s 2

### AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM

#### 17.117 AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM.

**Subdivision 1. Purpose.** The purpose of the agriculture best management practices loan program is to provide low or no interest financing to farmers, agriculture supply businesses, and rural landowners for the implementation of agriculture best management practices.

**Subd. 2. Authority.** The commissioner shall establish, adopt rules for, and implement a program to work with local units of government, federal authorities, lending institutions, and other appropriate organizations to provide loans to landowners and businesses for facilities, fixtures, equipment, or other sustainable practices that prevent or mitigate sources of nonpoint source water pollution. The commissioner shall establish pilot projects to develop procedures for implementing the program. The commissioner shall develop administrative guidelines to implement the pilot projects specifying criteria, standards, and procedures for making loans.

Subd. 3. **Appropriations.** Up to \$20,000,000 of the balance in the water pollution control revolving fund in section 446A.07, as determined by the public facilities authority, is appropriated to the commissioner for the establishment of this program.

Subd. 4. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Applicant" means a county or a local government unit designated by a county under subdivision 8, paragraph (a).

(b) "Authority" means the Minnesota public facilities authority as established in section 446A.03.

(c) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2.

(d) "Chair" means the chair of the board of water and soil resources or the designee of the chair.

(e) "Borrower" means an individual farmer, an agriculture supply business, or rural landowner applying for a low-interest loan.

(f) "Commissioner" means the commissioner of agriculture or the designee of the commissioner.

(g) "Comprehensive water management plan" means a state approved and locally adopted plan authorized under section 103B.231, 103B.255, 103B.311, 103C.331, 103D.401, or 103D.405.

(h) "County allocation request" means a loan allocation request from an applicant to implement agriculturally related best management practices defined in paragraph (c).

(i) "Lender agreement" means an agreement entered into between the commissioner and a local lender. The agreement will contain terms and conditions of the loan that will include but need not be limited to general loan provisions, loan management requirements, application of payments, loan term limits, allowable expenses, and fee limitations.

(j) "Local government unit" means a county, soil and water conservation district, or an organization formed for the joint exercise of powers under section 471.59.

(k) "Local lender" means a local government unit as defined in paragraph (j), a state or federally chartered bank, a savings and loan association, a state or federal credit union, or Farm Credit Services.

(l) "Nonpoint source" has the meaning given in section 103F.711, subdivision 6.

Subd. 5. **Uses of funds.** Use of funds under this section must be in compliance with the federal Water Pollution Control Act, section 446A.07, and eligible activities listed in the intended use plan authorized in section 446A.07, subdivision 4.

Subd. 6. **Application.** (a) The commissioner must prescribe forms and establish an application process for applicants to apply for a county allocation request. The application must include but need not be limited to (1) the geographic area served; (2) the type and estimated cost of activities or projects for which they are seeking a loan allocation; (3) a ranking of proposed activities or projects; and (4) the designation of the local lender and lending practices the applicant intends to use to issue the loans to the borrowers, if a local lender other than the applicant is to be used.

(b) In an area of the state where a county allocation request has not been requested or has been rejected, application forms must be available for a borrower to apply directly to the commissioner for a loan under this program.

(c) If a county allocation request is rejected, the applicant must be notified in writing as to the reasons for the rejection and given 30 days to submit a revised application. The revised application shall be reviewed according to the same procedure used to review the initial application.

Subd. 7. **Payments.** Payments made from the water pollution control revolving fund must be made in accordance with applicable state and federal laws and rules governing the payments.

**Subd. 8. Applicant; borrowers.** (a) A county may submit a county allocation request as defined in subdivision 4, paragraph (h). A county or a group of counties may designate another local government unit as defined in subdivision 4, paragraph (j), to submit a county allocation request.

(b) If a county does not submit a county allocation request, and does not designate another local government unit, a soil and water conservation district may submit a county allocation request. In all instances, there may be only one request from a county. The applicant must coordinate and submit requests on behalf of other units of government within the geographic jurisdiction of the applicant.

(c) Borrowers may apply directly to the commissioner if the commissioner does not receive or approve a county allocation request from the county, designated local government unit, or soil and water conservation district in which the proposed activities would be carried out.

**Subd. 9. Review and ranking of allocation requests.** (a) The commissioner shall chair the subcommittee established in section 103F.761, subdivision 2, paragraph (b), for purposes of reviewing and ranking county allocation requests. The rankings must be in order of priority and shall provide financial assistance within the limits of the funds available. In carrying out the review and ranking, the subcommittee must consist of, at a minimum, the chair, representatives of the pollution control agency, United States Department of Agricultural Stabilization and Conservation Service, United States Department of Agriculture Soil Conservation Service, Association of Minnesota Counties, and other agencies or associations as the commissioner, the chair, and agency determine are appropriate. The review and ranking shall take into consideration other related state or federal programs.

(b) The subcommittee shall use the criteria listed below in carrying out the review and ranking:

(1) whether the proposed activities are identified in a comprehensive water management plan as priorities;

(2) whether the applicant intends to establish a revolving loan program under subdivision 10, paragraph (b);

(3) the potential that the proposed activities have for improving or protecting surface and groundwater quality;

(4) the extent that the proposed activities support areawide or multijurisdictional approaches to protecting water quality based on defined watershed;

(5) whether the activities are needed for compliance with existing water related laws or rules;

(6) whether the proposed activities demonstrate participation, coordination, and cooperation between local units of government and other public agencies;

(7) whether there is coordination with other public and private funding sources and programs; and

(8) whether there are off-site public benefits such as preventing downstream degradation and siltation.

**Subd. 10. Authority of applicants.** (a) Applicants may enter into agreements with borrowers to finance projects under this section.

(b) Applicants may establish revolving loan programs to finance projects under this section.

(c) In approving county allocation requests, the commissioner shall allow applicants to provide loans under revolving loan programs established under paragraph (b), until 50 percent of the amount appropriated and available under subdivision 3 has been allocated to applicants establishing these programs. In approving any additional county allocation requests, the commissioner may allow applicants to provide loans under these programs.

**Subd. 11. Borrower eligibility; terms; repayment.** (a) Local lenders shall use the following criteria in addition to other criteria they deem necessary in determining the eligibility of borrowers for loans:

(1) whether the activity is certified by a local unit of government as meeting priority needs identified in a comprehensive water management plan and is in compliance with accepted standards, specifications, or criteria;

(2) whether the activity is certified as eligible under Environmental Protection Agency or other applicable guidelines; and

(3) whether the repayment is assured from the borrower.

(b) Local lenders shall set the terms and conditions of loans. In all instances, local lenders must provide for sufficient collateral or protection for the loan principal. They are responsible for collecting repayments by borrowers. For direct loans, the borrower must provide sufficient collateral and repay the loan according to a mutually prearranged schedule with the commissioner.

(c) A local lender is responsible for repaying the principal of a loan to the commissioner. The terms of repayment will be identified in the lender agreement. If defaults occur, it is the responsibility of the local lender to obtain repayment from the borrower. For revolving loan programs established under subdivision 10, paragraph (b), the lender agreement must provide that:

(1) repayment of principal to the commissioner must begin ten years after the date the applicant receives the allocation; and

(2) the applicant shall report to the commissioner annually regarding the intended uses of the money in the revolving loan program.

**Subd. 12. Data privacy.** The following data on applicants or borrowers collected by the commissioner under this section are private for data on individuals as provided in section 13.02, subdivision 12, or nonpublic for data not on individuals as provided in section 13.02, subdivision 9: financial information, including, but not limited to, credit reports, financial statements, tax returns and net worth calculations received or prepared by the commissioner.

**Subd. 13. Establishment of account.** The authority shall establish an account called the agriculture best management practices revolving fund to provide loans and other forms of financial assistance authorized under section 446A.07. The fund must be credited with repayments.

**Subd. 14. Fees; loan services.** Origination fees charged directly to borrowers by local lenders upon executing a loan shall not exceed one-half of one percent of the loan amount. Servicing fees assessed to loan repayments must not exceed two percent interest on outstanding principal amounts if the local lender is a local government unit, or three percent interest on outstanding principal amounts if the local lender is a state or federally chartered bank, savings and loan association, a state or federal credit union, or an entity of Farm Credit Services.

**Subd. 15. Report.** (a) The commissioner and chair shall prepare and submit a report to the legislative water commission by October 15, 1994, and October 15, 1995. Thereafter, the report shall be submitted by October 15 of each odd-numbered year.

(b) The report shall include, but need not be limited to, matters such as loan allocations and uses, the extent to which the financial assistance is helping implement local water planning priorities, the integration or coordination that has occurred with related programs, and other matters deemed pertinent to the implementation of the program.

**Subd. 16. Assessment against real property.** A county may assess and charge against real property amounts loaned and servicing fees for projects funded under this section. The auditor of the county where the project is located shall extend the amounts assessed and charged on the tax roll of the county against the real property on which the project is located.

**History:** 1994 c 632 art 2 s 11

17.12 [Repealed, 1955 c 92 s 3]

17.13 [Repealed, 1955 c 92 s 3]

**FARM SOLID WASTE DISPOSAL****17.135 FARM DISPOSAL OF SOLID WASTE.**

(a) A permit is not required from a state agency, except under sections 88.16, 88.17, and 88.22 for a person who owns or operates land used for farming that buries, or burns and buries, solid waste generated from the person's household or as part of the person's farming operation if the burying is done in a nuisance free, pollution free, and aesthetic manner on the land used for farming. This exception does not apply if regularly scheduled pickup of solid waste is reasonably available at the person's farm, as determined by resolution of the county board of the county where the person's farm is located.

(b) This exemption does not apply to burning tires or plastics, except plastic baling twine, or to burning or burial of the following materials:

- (1) household hazardous waste as defined in section 115A.96, subdivision 1;
- (2) appliances, including but not limited to, major appliances as defined in section 115A.03, subdivision 17a;
- (3) household batteries;
- (4) used motor oil; and
- (5) lead acid batteries from motor vehicles.

**History:** 1989 c 131 s 2; 1993 c 249 s 5

**FEEDLOT AND MANURE  
MANAGEMENT ADVISORY COMMITTEE****17.136 ANIMAL FEEDLOTS; POLLUTION CONTROL; FEEDLOT AND  
MANURE MANAGEMENT ADVISORY COMMITTEE.**

(a) The commissioner of agriculture and the commissioner of the pollution control agency shall establish a feedlot and manure management advisory committee to identify needs, goals, and suggest policies for research, monitoring, and regulatory activities regarding feedlot and manure management. In establishing the committee, the commissioner shall give first consideration to members of the existing feedlot advisory group.

(b) The committee must include representation from beef, dairy, pork, chicken, and turkey producer organizations. The committee shall not exceed 18 members, but must include representatives from at least three environmental organizations, eight livestock producers, and four experts in soil and water science, nutrient management, and animal husbandry, one member from an organization representing local units of government, one member from the senate, and one member from the house of representatives. In addition, the department of agriculture, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Soil Conservation Service, the association of Minnesota counties, and the Agricultural Stabilization and Conservation Service shall serve on the committee as ex officio nonvoting members.

(c) Persons who participated in activities of the feedlot advisory group existing on and before August 1, 1994, must be allowed to speak at proceedings of the advisory committee. These persons hold nonvoting status and are not eligible for reimbursement of expenses under paragraph (h).

(d) The advisory committee shall elect a chair from its members. The department and the agency shall provide staff support to the committee.

(e) The commissioner of agriculture and the commissioner of the pollution control agency shall consult with the advisory committee during the development of any policies, rules, or funding proposals or recommendations relating to feedlots or feedlot-related manure management.

(f) The commissioner of agriculture shall consult with the advisory committee on establishing a list of manure management research needs and priorities.



(g) The advisory committee shall advise the commissioners on other appropriate matters.

(h) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, 1997.

*History: 1994 c 619 s 1*

### **17.138 MANURE MANAGEMENT RESEARCH AND MONITORING PRIORITIES; COORDINATION OF RESEARCH.**

Subdivision 1. **Priorities.** (a) The commissioner, in consultation with the commissioner of the pollution control agency and the feedlot and manure management advisory committee, shall develop and maintain a list of manure management research and monitoring needs and priorities.

(b) The commissioner shall solicit the needs and ideas of livestock producers and consult with producers in developing the list.

(c) The commissioner shall also consult with agricultural and environmental researchers, state and federal agencies, and other appropriate organizations to identify current efforts as well as to assist in the development of research and monitoring needs and priorities.

Subd. 2. **Coordination of research.** The commissioner shall coordinate manure management research and monitoring and make recommendations on manure management research and monitoring funding priorities to the legislature and other funding bodies.

*History: 1994 c 619 s 2*

## **INSPECTIONS OF AGRICULTURAL OPERATIONS**

### **17.139 MEMORANDUM OF AGREEMENT AMONG STATE AGENCIES ON INSPECTIONS OF AGRICULTURAL OPERATIONS.**

The commissioner shall develop memoranda of agreement among all state and federal agencies that have authority to inspect property in agricultural use, as defined in section 17.81, subdivision 4, to ensure that reasonable and effective protocols are followed when inspecting sites in agricultural use. The memorandum shall specify procedures that address, but are not limited to, the following:

- (1) when appropriate, advance notice to the agricultural use landowner or operator;
- (2) procedures for notification of the inspection results or conclusions to the owner or operator; and
- (3) special procedures as might be necessary, such as to prevent the introduction of diseases.

*History: 1994 c 619 s 3; 1994 c 642 s 2*

## **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.** "Farm products" means butter, milk, cream, butterfat, cheese, other dairy products, honey, eggs, poultry, poultry products, perishable fresh fruits and vegetables, 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.

**History:** (6248-2,10522-4) 1927 c 252 s 2; 1935 c 100 s 1; 1937 c 420 s 1; 1990 c 530 s 1

### 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.

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

### 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.

**History:** (6248-4) 1927 c 252 s 4; 1973 c 123 art 5 s 7

### 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, the commissioner shall investigate such complaint and may, upon personal initiative, investigate whether or not section 17.15 has been violated; and, in either event, for that purpose, may subpoena witnesses, administer oaths, take testimony, and if, in the commissioner's opinion, sufficient ground exists therefor, 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.

**History:** (6248-6) 1927 c 252 s 6; 1986 c 444

**17.18 PROSECUTIONS INSTITUTED BY OTHERS.**

The authority hereby extended to the commissioner shall be considered as duties only and shall not be construed 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.

**History:** (6248-8) 1927 c 252 s 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.

**History:** (6248-7) 1927 c 252 s 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.

**History:** (6248-9) 1927 c 252 s 9; 1937 c 420 s 3

- 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]

**WILDFLOWERS****17.23 CONSERVATION OF CERTAIN WILDFLOWERS.**

**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 (*Cypripediceae*), 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 shall 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, shall assemble the facts and transmit the same to the attorney general, or 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 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.

**History:** (10522-1,10522-2,10522-3) 1925 c 409 s 1-3; 1935 c 100 s 1; 1986 c 444

**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** [Repealed, 1985 c 44 s 5]

#### 17.351 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 17.352 to 17.354.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Fur-bearing animal.** "Fur-bearing animal" means a fox, mink, fitch, chin-chilla, karakul, marten, nutria, or fisher that is the second or later generation raised in captivity.

Subd. 4. **Fur farmer.** "Fur farmer" means a person engaged in breeding, raising, producing, and marketing fur-bearing animals or the products of fur-bearing animals.

**History:** 1985 c 44 s 1

**17.352 AGRICULTURAL PRODUCTS AND PURSUITS.**

Fur-bearing animals are domestic animals and products of fur-bearing animals are agricultural products. A fur farmer is engaged in an agricultural pursuit.

*History: 1985 c 44 s 2*

**17.353 FUR FARMER REGISTRATION.**

**Subdivision 1. Registration system.** The commissioner shall establish a registration system for fur farmers. The registration system shall be designed to maintain information required by the commissioner, United States Department of Agriculture, and other agencies.

**Subd. 2. Registration.** A fur farmer may register with the commissioner by submitting a completed registration form and a fee of \$10 to the commissioner by December 31. The registration is valid for a calendar year. The registration form must state the name of the applicant, the location of the fur farming activity, the species of fur-bearing animals on the fur farm, and other information required by the commissioner.

**Subd. 3. Tags for transportation and sale.** The commissioner shall, if requested, furnish registered fur farmers tags, without a fee, for the transport and sale of fur-bearing animals and their products. A fur farmer transporting or selling pelts of fur-bearing animals may attach the tag to a package containing pelts.

**Subd. 4. Annual reports of pelts sold.** A registered fur farmer must file a verified report of the number of pelts of each species of fur-bearing animal sold during the preceding calendar year. The report must be filed with the commissioner by December 31.

*History: 1985 c 44 s 3*

**17.354 APPLICATION.**

Sections 17.351 to 17.353 do not affect provisions of law relating to wild animals.

*History: 1985 c 44 s 4*

**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.

*History: 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.

*History: 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.

*History: 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 the person's 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, or the party's 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.

*History: 1955 c 415 s 4; 1961 c 113 s 1; 1986 c 444*

**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.

*History: 1957 c 486 s 1,2; 1961 c 113 s 1*

**FARMED CERVIDAE****17.451 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this section and section 17.452.

Subd. 2. **Farmed cervidae.** "Farmed cervidae" means members of the cervidae family that are:

(1) raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock;

(2) held in a constructed enclosure designed to prevent escape; and

(3) registered in a manner approved by the board of animal health and marked or identified with a unique number or other system approved by the board.

Subd. 3. **Owner.** "Owner" means a person who owns or is responsible for the raising of farmed cervidae.

*History: 1993 c 375 art 9 s 1*

**17.452 FARM-RAISED CERVIDAE.**

Subdivision 1. **Promotion and coordination.** (a) The commissioner shall promote

the commercial raising of farmed cervidae and shall coordinate programs and rules related to the commercial raising of farmed cervidae. Farmed cervidae research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research projects or demonstrations are encumbered. The commissioner shall maintain a data base of information on raising farmed cervidae.

(b) The commissioner shall appoint a farmed cervidae advisory committee to advise the commissioner on farmed cervidae issues. The advisory committee shall consist of representatives from the University of Minnesota, the commissioner of agriculture, the board of animal health, the commissioner of natural resources, the commissioner of trade and economic development, a statewide elk breeders association, a statewide deer breeders association, a statewide deer farmers association, and members of the house of representatives and the senate. The committee shall meet at least twice a year at the call of the commissioner of agriculture.

**Subd. 2. Development program.** The commissioner may establish a Minnesota development and aid program that may support applied research, demonstration, financing, marketing, promotion, breeding development, registration, and other services for owners.

**Subd. 3. Report.** The commissioner shall include information on farmed cervidae in the department's statistical reports on Minnesota agriculture.

**Subd. 4. Farmed cervidae are livestock.** Farmed cervidae are livestock and are not wild animals for purposes of game farm, hunting, or wildlife laws. Farmed cervidae and their products are farm products and livestock for purposes of financial transactions and collateral.

**Subd. 5. Raising farmed cervidae is an agricultural pursuit.** Raising farmed cervidae is agricultural production and an agricultural pursuit.

**Subd. 6. Running at large prohibited.** (a) An owner may not allow farmed cervidae to run at large. The owner must make all reasonable efforts to return escaped farmed cervidae to their enclosures as soon as possible. The owner must notify the commissioner of natural resources of the escape of farmed red deer if the farmed red deer are not returned or captured by the owner within 72 hours of their escape.

(b) An owner is liable for expenses of another person in capturing, caring for, and returning farmed cervidae that have left their enclosures if the person capturing the farmed cervidae contacts the owner as soon as possible.

(c) If an owner is unwilling or unable to capture escaped farmed cervidae, the commissioner of natural resources may destroy the escaped farmed cervidae under this paragraph if the escaped farmed cervidae are a threat to the health or population of native species. The commissioner must allow the owner to attempt to capture the escaped farmed cervidae prior to destroying the farmed cervidae. Farmed cervidae that are not captured by 14 days after escape may be destroyed.

(d) The owner must notify the commissioner of natural resources of the escape of farmed cervidae from a quarantined herd if the farmed cervidae are not returned to or captured by the owner within 72 hours of their escape. The escaped farmed cervidae from the quarantined herd may be destroyed by the commissioner of natural resources if the escaped farmed cervidae are a threat to the health or population of native species.

**Subd. 7. Farming in native elk area.** A person may not raise farmed red deer in the native elk area without written approval of the commissioner of natural resources. The native elk area is the area north of U.S. Highway 2 and west of U.S. Highway 71 and trunk highway 72. The commissioner shall review the proposed farming operation and approve with any condition or deny approval based on risks to the native elk population.

**Subd. 8. Slaughter.** Farmed cervidae must be slaughtered and inspected in accordance with the United States Department of Agriculture voluntary program for exotic animals, Code of Federal Regulations, title 9, part 352.

**Subd. 9. Sales of farmed cervidae and meat products.** Persons selling or buying farmed cervidae sold as livestock, sold for human consumption, or sold for slaughter must comply with chapters 17A, 31, 31A, and 31B.

Subd. 10. **Fencing.** (a) Farmed cervidae must be confined in a manner designed to prevent escape. Fencing must meet the requirements in this subdivision unless an alternative is specifically approved by the commissioner. The board of animal health shall follow the guidelines established by the United States Department of Agriculture in the program for eradication of bovine tuberculosis. Fencing must be of the following heights:

- (1) for farmed deer, at least 75 inches; and
- (2) for farmed elk, at least 90 inches.

(b) The farmed cervidae advisory committee shall establish guidelines designed to prevent the escape of farmed cervidae and other appropriate management practices.

(c) The commissioner of agriculture in consultation with the commissioner of natural resources shall adopt rules prescribing fencing criteria for farmed cervidae.

Subd. 11. **Disease inspection.** Farmed cervidae herds are subject to chapter 35 and the rules of the board of animal health in the same manner as livestock and domestic animals, including provisions relating to importation and transportation.

Subd. 12. **Identification.** (a) Farmed cervidae must be identified by brands, markings, tags, collars, electronic implants, tattoos, or other means of identification approved by the board of animal health. The board shall authorize discrete permanent identification for farmed cervidae in public displays or other forums where visible identification is objectionable.

(b) Identification of farmed cervidae is subject to sections 35.821 to 35.831.

(c) The board of animal health shall register farmed cervidae upon request of the owner. The owner must submit the registration request on forms provided by the board. The forms must include sales receipts or other documentation of the origin of the cervidae. The board shall provide copies of the registration information to the commissioner of natural resources upon request. The owner must keep written records of the acquisition and disposition of registered farmed cervidae.

Subd. 13. **Inspection.** The commissioner of agriculture and the board of animal health may inspect farmed cervidae and farmed cervidae records. The commissioner of natural resources may inspect farmed cervidae and farmed cervidae records with reasonable suspicion that laws protecting native wild animals have been violated. The owner must be notified in writing at the time of the inspection of the reason for the inspection and informed in writing after the inspection of whether (1) the cause of the inspection was unfounded; or (2) there will be an ongoing investigation or continuing evaluation.

Subd. 14. **Contested case hearing.** A person raising farmed cervidae that is aggrieved with any decision regarding the farmed cervidae may request a contested case hearing under chapter 14.

*History: 1993 c 375 art 9 s 2*

## RATITAE

### 17.453 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this section and section 17.454.

Subd. 2. **Owner.** "Owner" means a person who owns or is responsible for the raising of ratitae.

Subd. 3. **Ratitae.** "Ratitae" means members of the ratitae family (including ostriches, emus, and rheas) that are raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock.

*History: 1993 c 375 art 9 s 3*

### 17.454 RATITAE.

Subdivision 1. **Ratitae are livestock.** Ratitae are livestock and are not wild animals



for purposes of hunting or wildlife laws. Ratitae and their products are farm products and livestock for purposes of financial transactions and collateral.

Subd. 2. **Raising ratitae is an agricultural pursuit.** Raising ratitae is agricultural production and an agricultural pursuit.

Subd. 3. **Sales of ratitae and meat products.** Persons selling or buying ratitae sold as livestock, sold for human consumption, or sold for slaughter must comply with chapters 17A, 28A, 31, 31A, and 31B.

Subd. 4. **Slaughter.** Ratitae must be slaughtered and inspected in accordance with the United States Department of Agriculture voluntary inspection program for exotic animals, Code of Federal Regulations, title 9, part 352.

Subd. 5. **Disease inspection.** Ratitae are subject to chapter 35 and the rules of the board of animal health in the same manner as livestock and domestic animals, including provisions relating to importation and transportation.

*History: 1993 c 375 art 9 s 4*

## LLAMA

### 17.455 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this section and section 17.456.

Subd. 2. **Llama.** "Llama" means a member of the genus *lama* that is raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock.

Subd. 3. **Owner.** "Owner" means a person who owns or is responsible for the raising of llamas.

*History: 1993 c 375 art 9 s 5*

### 17.456 LLAMA.

Subdivision 1. **Llamas are livestock.** Llamas are livestock and are not wild animals for purposes of hunting or wildlife laws. Llamas and their products are farm products and livestock for purposes of financial transactions and collateral.

Subd. 2. **Raising llamas is an agricultural pursuit.** Raising llamas is agricultural production and an agricultural pursuit.

Subd. 3. **Sales of llamas and meat products.** Persons selling or buying llamas sold as livestock, sold for human consumption, or sold for slaughter must comply with chapters 17A, 28A, 31, 31A, and 31B.

Subd. 4. **Slaughter.** Llamas must be slaughtered and inspected in accordance with the United States Department of Agriculture voluntary inspection program for exotic animals, Code of Federal Regulations, title 9, part 352.

Subd. 5. **Disease inspection.** Llamas are subject to chapter 35 and the rules of the board of animal health in the same manner as livestock and domestic animals, including provisions relating to importation and transportation.

*History: 1993 c 375 art 9 s 6*

### 17.457 RESTRICTED SPECIES.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Restricted species" means Eurasian wild pigs and their hybrids (*Sus scrofa* subspecies and *Sus scrofa* hybrids), excluding domestic hogs (*S. scrofa domesticus*).

(d) "Release" means an intentional introduction or escape of a species from the control of the owner or responsible party.

Subd. 2. **Importation; possession; release of restricted species.** It is unlawful for a person to import, possess, propagate, transport, or release restricted species, except as provided in subdivision 3.

**Subd. 3. Permits.** (a) The commissioner may issue permits for the transportation, possession, purchase, or importation of restricted species for scientific, research, educational, or commercial purposes. A permit issued under this subdivision may be revoked by the commissioner if the conditions of the permit are not met by the permittee or for any unlawful act or omission, including accidental escapes.

(b) The commissioner may issue permits for a person to possess and raise a restricted species for commercial purposes if the person was in possession of the restricted species on March 1, 1993. Under the permit, the number of breeding stock of the restricted species in the possession of the person may not increase by more than 25 percent and the person must comply with the certification requirements in subdivision 7.

(c) A person may possess a restricted species without a permit for a period not to exceed two days for the purpose of slaughtering the restricted species for human consumption.

**Subd. 4. Notice of escape of restricted species.** In the event of an escape of a restricted species, the owner must notify within 24 hours a conservation officer and the board of animal health and is responsible for the recovery of the species. The commissioner may capture or destroy the escaped animal at the owner's expense.

**Subd. 5. Enforcement.** This section may be enforced under sections 97A.205 and 97A.211.

**Subd. 6. Penalty.** A person who violates subdivision 2, 4, or 7 is guilty of a misdemeanor.

**Subd. 7. Certification and identification requirements.** (a) A person who possesses restricted species on July 1, 1993, must submit certified numbers of restricted species in the person's possession to the board of animal health by June 1, 1993.

(b) Restricted species in the possession of a person must be marked in a permanent fashion to identify ownership. The restricted species must be marked as soon as practicable after birth or purchase.

**Subd. 8. Containment.** The commissioner, in consultation with the commissioner of natural resources, shall develop criteria for approved containment measures for restricted species with the assistance of producers of restricted species.

**Subd. 9. Bond; security.** A person who possesses restricted species must file a bond or deposit with the commissioner security in the form and in the amount determined by the commissioner to pay for the costs and damages caused by an escape of a restricted species.

**Subd. 10. Fee.** The commissioner shall impose a fee for permits in an amount sufficient to cover the costs of issuing the permits and for facility inspections. The fee may not exceed \$50. Fee receipts must be deposited in the state treasury and credited to the special revenue fund and are appropriated to the commissioner for the purposes of this section.

**History:** 1993 c 129 s 3; 1994 c 623 art 1 s 16-18,46

## AQUACULTURE DEVELOPMENT

### 17.46 SHORT TITLE.

Laws 1991, chapter 309, sections 4 to 16, may be cited as the aquaculture development act.

**History:** 1991 c 309 s 3

### 17.47 DEFINITIONS.

**Subdivision 1. Scope.** The definitions in this section apply to Laws 1991, chapter 309, sections 2 to 16.

**Subd. 2. Aquaculture.** "Aquaculture" means the culture of private aquatic life for consumption or sale.

Subd. 3. **Aquatic farm.** "Aquatic farm" means a facility used for the purpose of culturing private aquatic life in waters, including but not limited to artificial ponds, vats, tanks, raceways, other indoor or outdoor facilities that an aquatic farmer owns or where an aquatic farmer has exclusive control of, or private fish hatcheries licensed under section 97C.211 for the sole purpose of processing or cultivating aquatic life.

Subd. 4. **Aquatic farmer.** "Aquatic farmer" means an individual who practices aquaculture.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **Department.** "Department" means the department of agriculture.

Subd. 7. **Private aquatic life.** "Private aquatic life" means fish, shellfish, mollusks, crustaceans, and any other aquatic animals cultured within an aquatic farm. Private aquatic life is the property of the aquatic farmer.

**History:** 1991 c 309 s 4; 1994 c 465 art 2 s 3

#### 17.49 AQUACULTURE PROGRAM AND PROMOTION.

Subdivision 1. **Program established.** The commissioner shall establish and promote a program of aquaculture in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, representatives of the private aquaculture industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Subd. 2. **Coordination.** Aquaculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquaculture in the state. Aquaculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for the research, projects, and demonstrations are encumbered. The commissioner shall maintain a database of aquaculture research, demonstrations, and other related information pertaining to aquaculture in the state.

Subd. 2a. **Development program.** The commissioner may establish a Minnesota aquaculture development and aid program that may support applied research, demonstration, financing, marketing, promotion, broodstock development, and other services.

Subd. 3. **Report.** The commissioner shall prepare an annual report on the amount of fish and aquaculture products produced in the state, where the products were produced, the opportunities in the state for aquaculture development, and impediments to Minnesota development of aquaculture.

**History:** 1987 c 186 s 15; 1987 c 312 art 1 s 26 subd 2; 1987 c 318 s 1; 1989 c 350 art 4 s 1; 1990 c 502 s 1,2; 1991 c 309 s 5; 1991 c 345 art 2 s 11; 1993 c 163 art 1 s 1

#### 17.491 AQUACULTURE IS AGRICULTURAL PURSUIT.

Aquaculture is an agricultural pursuit.

**History:** 1989 c 350 art 4 s 2

#### 17.492 [Repealed, 1991 c 309 s 17]

#### 17.494 AQUACULTURE PERMITS; RULES.

The commissioner shall act as permit or license coordinator for aquatic farmers and shall assist aquatic farmers to obtain licenses or permits.

By July 1, 1992, a state agency issuing multiple permits or licenses for aquaculture shall consolidate the permits or licenses required for every aquatic farm location. The department of natural resources transportation permits are exempt from this requirement. State agencies shall adopt rules or issue commissioner's orders that establish permit and license requirements, approval timelines, and compliance standards.

Nothing in this section modifies any state agency's regulatory authority over aquaculture production.

**History:** 1991 c 309 s 6

**17.495' APPEAL PROCEDURES.**

A state agency that denies a license or permit to an aquatic farmer shall provide the aquatic farmer with a written notice specifying the reasons for refusal.

An aquatic farmer may appeal a state agency's denial of the license or permit in a contested case proceeding under chapter 14.

*History: 1991 c 309 s 7*

**17.496 QUARANTINE FACILITY; RULES.**

By July 1, 1992, the commissioner of natural resources shall adopt rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for the construction and operation of a quarantine facility for fish eggs presently requiring quarantine and disposition of fish from the facility. Fish in a quarantine station that are determined to be disease-free under the procedures developed by the commissioner of natural resources may be bought, sold, or transported.

*History: 1991 c 309 s 8*

**17.497 EXOTIC SPECIES IMPORTATION; RULES.**

The commissioner of natural resources shall establish rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for approving or rejecting importation of "exotic" or genetically altered aquatic species to protect the integrity of the natural ecosystem and provide aquatic farmers with information that may affect business decisions.

*History: 1991 c 309 s 9*

**17.498 RULES; FINANCIAL ASSURANCE.**

(a) The commissioner of the pollution control agency, after consultation and cooperation with the commissioners of agriculture and natural resources, shall present proposed rules to the pollution control agency board prescribing water quality permit requirements for aquaculture facilities by May 1, 1992. The rules must consider:

(1) best available proven technology, best management practices, and water treatment practices that prevent and minimize degradation of waters of the state considering economic factors, availability, technical feasibility, effectiveness, and environmental impacts;

(2) classes, types, sizes, and categories of aquaculture facilities;

(3) temporary reversible impacts versus long-term impacts on water quality;

(4) effects on drinking water supplies that cause adverse human health concerns;  
and

(5) aquaculture therapeutics, which shall be regulated by the pollution control agency.

(b) Net pen aquaculture and other aquaculture facilities with similar effects must submit an annual report to the commissioner of the pollution control agency analyzing changes in water quality trends from previous years, documentation of best management practices, documentation of costs to restore the waters used for aquaculture to the trophic state existing before aquatic farming was initiated, and documentation of financial assurance in an amount adequate to pay for restoration costs. The trophic state, which is the productivity of the waters measured by total phosphorus, dissolved oxygen, algae abundance as chlorophyll-a, and secchi disk depth of light penetration, and the condition of the waters measured by raw drinking water parameters, shall be determined to the extent possible before aquatic farming is initiated. The financial assurance may be a trust fund, letter of credit, escrow account, surety bond, or other financial assurance payable to the commissioner for restoration of the waters if the permittee cannot or will not restore the waters after termination of aquatic farming operations or revocation of the permit.

(c) The commissioner of the pollution control agency shall submit a draft of the

proposed rules to the legislative water commission by September 1, 1991. By January 15, 1992, the commissioner of the pollution control agency shall submit a report to the legislative water commission about aquaculture facilities permitted by the pollution control agency. The report must include concerns of permittees as well as concerns of the agency about permitted aquaculture facilities and how those concerns will be addressed in the proposed rules.

(d) Information received as part of a permit application or as otherwise requested must be classified according to chapter 13. Information about processes, aquatic farming procedures, feed and therapeutic formulas and rates, and tests on aquatic farming products that have economic value is nonpublic data under chapter 13, if requested by the applicant or permittee.

**History:** 1991 c 309 s 10

#### **17.4981 GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.**

Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife. Aquatic farms must be licensed and given classifications to prevent or minimize impacts on natural resources. The purpose of sections 17.4981 to 17.4997 is to:

- (1) prevent public aquatic life from entering an aquatic farm;
  - (2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner;
  - (3) protect against release of disease pathogens to public waters;
  - (4) protect existing natural aquatic habitats and the wildlife dependent on them;
- and
- (5) protect private aquatic life from unauthorized taking or harvest.

Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

**History:** 1992 c 566 s 1

#### **17.4982 DEFINITIONS.**

**Subdivision 1. Scope.** The definitions in this section apply to sections 17.4981 to 17.4998.

**Subd. 2. Approved laboratory methods.** "Approved laboratory methods" means methods described in the latest edition of the "Procedures for the Detection and Identification of Certain Fish Pathogens" published by the American Fisheries Society Fish Health Section known as the Fish Health Blue Book.

**Subd. 2a. Aquaculture therapeutics.** "Aquaculture therapeutics" means drugs, medications, and disease control chemicals that are approved for aquaculture use by the United States Food and Drug Administration or the United States Environmental Protection Agency.

**Subd. 3. Aquarium facilities.** "Aquarium facilities" means facilities that rear or hold private aquatic life for sale for aquarium or display purposes.

**Subd. 4. Aquatic farm.** "Aquatic farm" means a licensed facility used for hatching, raising, rearing, and culturing private aquatic life in waters and preparing aquatic life for sale, including, but not limited to, ponds, vats, tanks, raceways, and other indoor or outdoor facilities that an aquatic farmer owns or waters of which an aquatic farmer has the use.

**Subd. 5. Aquatic life.** "Aquatic life" has the meaning given to "private aquatic life" in section 17.47, subdivision 7, and for purposes of commercial transactions, aquatic life is livestock.

**Subd. 6. Certifiable diseases.** "Certifiable diseases" include channel catfish virus, bacterial kidney disease, bacterial furunculosis, enteric redmouth disease, enteric septicemia of catfish, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, proliferative kidney disease, viral hemorrhagic septicemia virus, epizootic epitheliotropic virus, ceratomyxosis, and any emergency disease.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of natural resources.

Subd. 8. **Containment facility.** "Containment facility" means a licensed facility for salmonids or catfish that complies with clauses (1), (3), and (4), or clauses (2), (3), and (4):

(1) disinfects its effluent to the standards in section 17.4991 before the effluent is discharged to public waters;

(2) does not discharge to public waters or to waters of the state directly connected to public waters;

(3) raises aquatic life for food consumption only;

(4) contains aquatic life requiring a fish health inspection prior to transportation.

Subd. 9. **Emergency fish disease.** "Emergency fish disease" means designated fish diseases not already present in this state that could impact populations of aquatic life if inadvertently released by infected aquatic life, including channel catfish virus, viral hemorrhagic septicemia virus, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, ceratomyxosis, proliferative kidney disease, and epizootic epitheliotropic virus disease.

Subd. 10. **Enzootic.** "Enzootic" means a disease that is known to occur within well-defined geographic boundaries.

Subd. 11. **Fish Health Blue Book.** "Fish Health Blue Book" means the standardized set of procedures and guidelines established and published by the American Fisheries Society Fish Health Section for the detection and isolation of fish pathogens.

Subd. 12. **Fish health inspection.** "Fish health inspection" means an on-site, statistically based sampling in accordance with processes in the Fish Health Blue Book for all lots of fish in a facility. The inspection must include at least viral testing of ovarian fluids at the 95 percent confidence level of detecting two percent incidence of disease (ovarian fluids must be sampled for certification of viral hemorrhagic septicemia and infectious hematopoietic necrosis). Bacterial diseases must be sampled at the 95 percent confidence level with a five percent incidence of disease. The inspection must be performed by a fish health inspector in cooperation with the producer with subsequent examination of the collected tissues and fluids for the detection of certifiable diseases.

Subd. 13. **Fish health inspector.** "Fish health inspector" means an individual certified as a fish health inspector by the American Fisheries Society or state, federal, or provincial resource management agency, except that a certification may not be made by an inspector who has a conflict of interest in connection with the outcome of the certification.

Subd. 14. **Game fish.** "Game fish" has the meaning given in section 97A.015, subdivision 25, except that green or orange spotted sunfish are not game fish for purposes of determining fish of significant public value.

Subd. 15. **Intensive culture.** "Intensive culture" means the rearing of fish at densities greater than can be supported in the natural environment.

Subd. 16. **Licensed facility.** "Licensed facility" means a licensed aquatic farm, including all licensed waters.

Subd. 17. **Lot.** "Lot" means a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply. Various age groups of adult brood stock of the same species may comprise the same lot if they have shared the same containers for one brood cycle.

Subd. 18. **Minnows.** "Minnows" has the meaning given in section 97A.015, subdivision 29, except the 12-inch restriction on sucker minnows does not apply.

Subd. 19. **Public waters.** "Public waters" has the meaning given in section 103G.005, subdivision 15.

Subd. 20. **Quarantine facility.** "Quarantine facility" means a culture system that is enclosed in a building and is separated from other fish culture facilities where fish can be isolated and maintained while preventing their introduction and pathogen introduction into the environment.

Subd. 21. **Standard facility.** "Standard facility" means a licensed facility with a continual or intermittent discharge of effluent to public waters.

Subd. 22. **Waters of the state.** "Waters of the state" has the meaning given in section 103G.005, subdivision 17.

*History: 1992 c 566 s 2; 1993 c 226 s 1-3*

### 17.4983 AQUATIC FARM OPERATIONS.

Subdivision 1. **Acquisition and sale of private aquatic life.** Aquatic life legally possessed may be bought, acquired, and sold by licensed facilities as provided in sections 17.4981 to 17.4997.

Subd. 2. **Acquisition from state.** (a) The commissioner may sell aquatic life to licensed facilities at fair wholesale market value. Fair wholesale market value must be determined by the average market price charged in this state and contiguous states and provinces for similar quantities.

(b) The commissioner shall establish procedures to make aquatic life available to licensed facilities if state aquatic life would otherwise die or go to waste, such as in cases of winterkill lakes, waters where piscicides will be applied, and waters subject to extreme draw-down. The public must be given angling opportunities if public access is available.

(c) The commissioner shall attempt to provide opportunities to make brood stock available to licensed facilities to reduce reliance on out-of-state sources without causing adverse impacts to game fish populations.

(d) If the commissioner denies approval to obtain aquatic life outside the state, a written notice must be submitted to the applicant stating the reasons for denial, and the commissioner shall:

- (1) designate approved sources if available to obtain the desired aquatic life; or
- (2) sell the aquatic life from state hatcheries at fair wholesale market value if there is a surplus from state operations.

Subd. 3. **Methods to harvest aquatic life.** Licensed facilities may use all reasonable methods to operate and harvest aquatic life from licensed facilities, including available nets.

Subd. 4. **Discharge may require permit.** The discharge from an aquatic farm must comply with discharge permits required by the Minnesota pollution control agency.

Subd. 5. **Ownership of aquatic life.** (a) Notwithstanding other provisions of law, aquatic life lawfully acquired and possessed by a licensed facility is private aquatic life and property of the owner of the licensed facility.

(b) The state may not seize or otherwise confiscate private aquatic life without due process of law, except that private aquatic life in public waters may become property of the state if the waters are not part of a licensed facility. The commissioner shall notify the licensee that the aquatic life in a facility that is no longer licensed will become property of the state if the aquatic life is not removed. If the licensee does not respond in writing within 30 days after receiving the notice and make alternative arrangements, or does not remove the aquatic life by 60 ice-free days after receiving the notice, the private aquatic life becomes property of the state.

(c) Private aquatic life that is transferred to the state or released into public waters that are not part of a licensed facility is owned by the state and may be considered wild-life.

Subd. 6. **Control of licensed waters.** (a) If the public cannot legally access waters of the state that are part of a licensed aquatic farm except by permission of the licensee, the use of the waters by the public is subject to restriction by the licensee.

(b) Waters of the state may not be licensed for aquaculture use to more than one licensee.

Subd. 7. **Angling in licensed waters.** A person may not take fish by angling from waters subject to subdivision 6 unless the person has written permission from the licensee and:

- (1) has an invoice when in possession of fish; or
- (2) takes fish under an angling license, subject to the limits and conditions in the game and fish laws.

**History:** 1992 c 566 s 3; 1993 c 226 s 4

#### 17.4984 AQUATIC FARM LICENSE.

**Subdivision 1. License required.** (a) A person or entity may not operate an aquatic farm without first obtaining an aquatic farm license from the commissioner.

(b) Applications for an aquatic farm license must be made on forms provided by the commissioner.

(c) Licenses are valid for five years and are transferable upon notification to the commissioner.

(d) The commissioner shall issue an aquatic farm license on payment of the required license fee under section 17.4988.

(e) A license issued by the commissioner is not a determination of private property rights, but is only based on a determination that the licensee does not have a significant detrimental impact on the public resource.

**Subd. 2. Listed waters.** (a) An aquatic farm license must list:

- (1) the specific waters of the state that may be used in connection with the licensed aquatic farm and the species approved for each licensed water; and
- (2) whether aeration requiring a permit is approved.

Additional waters may not be used until they are approved by the commissioner.

(b) The right to use waters licensed for private fish hatchery or aquatic farm purposes may be transferred between licensees with prior approval by the commissioner if requirements for species to be raised are met. Waters that are continually connected by a permanent watercourse to other waters must not be approved for aquatic farm use, except that connected waters that are isolated from other waters may be licensed as a single water body. Waters that are intermittently connected or may become connected with other waters may be denied, or screening or other measures may be required to prevent passage of aquatic life. Listed waters may be changed on approval by the area fisheries supervisor or the commissioner.

(c) The commissioner shall conduct an inspection of waters to be licensed prior to approving or denying initial licensing of the waters.

(d) Waters containing game fish of significant public value may be denied licensing unless the applicant can demonstrate exclusive riparian control.

(e) Waters containing game fish of significant public value may be denied licensing unless the game fish of significant public value are sold to the licensee, removed for other state use by the department of natural resources, or disposed of as provided in writing by the commissioner.

(f) Waters licensed under an aquatic farm license may be aerated during open water periods without a separate aeration permit.

**Subd. 3. Listed species.** (a) An aquatic farm license must list the species of aquatic life appropriate for the classification of the waters. Listed species of aquatic life may be changed on written request to and approval by the area fisheries supervisor. Species of aquatic life regulated under chapter 97A, 97B, or 97C may not be cultured unless listed on the license.

(b) All waters licensed before July 1, 1992, under a private fish farm or fish hatchery license must be approved for species listed under current licenses if other conditions for licensing are met.

(c) If licensed waters are located within a 25-year floodplain and are not enclosed within a building, species of aquatic life may be licensed at the discretion of the commissioner.

(d) Licensed waters located outside of a 25-year floodplain or enclosed within a



building may be licensed for any species, except that the commissioner may deny licensing for species not present in the state.

**Subd. 4. Single license for aquatic farming operation.** The commissioner shall issue a single license for aquatic farming, with the following information and endorsements:

- (1) waters covered by the license;
- (2) classification of each of the licensed waters;
- (3) aeration endorsement for each licensed water where the licensee has exclusive control of riparian access or where the conditions for an aeration permit have been met; and
- (4) endorsements requested by the licensee.

**Subd. 5. State list of waters.** If the state uses waters of the state for aquatic farming, the state shall acquire legal access to the waters and make documentation of the access available to the public.

**Subd. 6. Inspections and enforcement.** (a) The premises, property, vehicles, private aquatic life, and equipment where private aquatic farm operations are being conducted are subject to an annual operations inspection and other reasonable and necessary inspections at reasonable times by conservation officers. The reason for the inspection must be provided in writing upon request. The owner, operator, or designee may be present when inspections are conducted.

(b) Conservation officers may enforce sections 17.4981 to 17.4997 under section 97A.205.

**Subd. 7. Nonpublic records.** (a) Licensees must keep complete, up-to-date, nonpublic records of the operation of the aquatic farm. The records must be kept for at least three years.

(b) The records must be in English and include the following information:

(1) for each species acquired, the number and pounds of fish or eggs acquired, names and addresses of the sources from which acquired, and the dates of receipt;

(2) for each species sold or disposed of, the number and pounds of fish sold or disposed of, the names and addresses of the purchasers or persons to whom the conveyances are made, and the dates of sale; and

(3) for fish sperm or viable eggs, the amount acquired or sold, the names and addresses of the sources from which acquired, the purchasers to whom conveyed, and the dates of purchase or sale.

(c) On or before March 1 of each year, the licensee shall submit a complete annual report on a form furnished by the commissioner, covering the quantity of all species sold or purchased in the preceding licensed year.

(d) An aquatic farmer shall maintain records for reasonable inspection by the commissioner. Information on aquatic life production, harvest, and sales is nonpublic information.

**History:** 1992 c 566 s 4; 1993 c 226 s 5

#### 17.4985 TRANSPORTATION OF AQUATIC LIFE.

**Subdivision 1. Requirements for importation, transportation within the state, or stocking of fish.** Except as provided in subdivision 3, a licensee may not import aquatic life into the state, transport aquatic life within the state, or stock waters of the state with aquatic life without first obtaining a bill of lading or transportation permit from the commissioner, with disease certification, if applicable.

**Subd. 2. Bill of lading.** (a) A person may transport aquatic life except salmonids or catfish with a completed bill of lading for:

- (1) intrastate transportation of aquatic life between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the same species and of the proper classification for the aquatic life if the aquatic life is being transported into a watershed where it is not currently present or if the original source of the aquatic life is outside Minnesota and contiguous states; and

(2) stocking of waters other than public waters.

(b) When aquatic life is transported under paragraph (a), a copy of the bill of lading must be submitted to the regional fisheries manager at least 72 hours before the transportation.

(c) For transportation and stocking of waters that are not public waters:

(1) a bill of lading must be submitted to the regional fisheries manager 72 hours before transporting fish for stocking;

(2) a bill of lading must be submitted to the regional fisheries manager within five days after stocking if the waters to be stocked are confirmed by telecopy or telephone prior to stocking by the regional fisheries office not to be public waters; or

(3) a completed bill of lading may be submitted to the regional fisheries office by telecopy prior to transporting fish for stocking. Confirmation that the waters to be stocked are not public waters may be made by returning the bill of lading by telecopy or in writing, in which cases additional copies need not be submitted to the department of natural resources.

(d) Bill of lading forms may only be issued by the department of natural resources in St. Paul, and new bill of lading forms may not be issued until all previously issued forms have been returned.

**Subd. 3. Exemptions for transportation permits and bills of lading.** (a) A bill of lading or transportation permit is not required by an aquatic farm licensee for importation, transportation, or export for the following:

(1) minnows taken under an aquatic farm license in this state and transported intrastate;

(2) aquarium or ornamental fish including goldfish and tropical, subtropical, and saltwater species that cannot survive in the waters of the state, which may be imported or transported if accompanied by shipping documents;

(3) fish or fish eggs that have been processed for use as food, bait, or other purposes unrelated to fish propagation;

(4) live fish from a licensed aquatic farm, which may be transported directly to an outlet for processing or for other food purposes if accompanied by shipping documents;

(5) fish being exported if accompanied by shipping documents;

(6) sucker eggs, sucker fry, or fathead minnows transported intrastate for bait propagation or feeding of cultural aquatic life;

(7) species of fish that are found within the state used in connection with public shows, exhibits, demonstrations, or fishing pools for periods not exceeding 14 days; or

(8) intrastate transportation of aquatic life between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the same species and of the proper facility classification for the aquatic life, except where required in subdivision 2 and except that salmonids and catfish may only be transferred or transported intrastate without a transportation permit if they had no record of bacterial kidney disease at the time they were imported into the state and if the most recent fish health inspection since importation has shown no certifiable diseases to be present.

Aquatic life being transferred between licensed private fish hatcheries, aquatic farms, or aquarium facilities must be accompanied by shipping documents and salmonids and catfish being transferred or transported intrastate without a transportation permit must be accompanied by a copy of their most recent fish health inspection.

(b) Shipping documents required under paragraph (a) must show the place of origin, owner or consignee, destination, number, and species.

**Subd. 4. Transportation permit requirements.** A transportation permit is required for all importation, transportation, or stocking of private aquatic life not covered by subdivision 2 or exempted in subdivision 3. A transportation permit may be used for multiple shipments within the 30-day term for the permit if the source and the destination remains the same. Transportation permits, which may authorize importation or stocking of public waters, may be issued through department of natural resources regional offices or the St. Paul office, and must be obtained prior to shipment.

**Subd. 5. Permit application.** An application for a transportation permit must be made on forms provided by the commissioner. An incomplete application must be rejected. An application for a transportation permit for salmonids and catfish, their eggs, or sperm must be accompanied by certification that the source of the eggs or sperm are free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported, transported, or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported, transported, or stocked into areas where the disease has been previously introduced. A copy of the transportation permit showing the date of certification inspection must accompany the shipment of fish while in transit and must be available for inspection by the commissioner. By 14 days after a completed application is received, the commissioner must approve or deny the importation permits as provided in this section.

**Subd. 6. Vehicle identification.** (a) A vehicle used by a licensee for transporting aquatic life must be identified with the licensee's name and town of residence as it appears on the license and the license number.

(b) A vehicle used by a licensee must have identification displayed so that it is readily visible from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and with a three-eighths inch wide stroke. Identification may be permanently affixed to vehicles or displayed on removable plates or placards placed on opposite doors of the vehicle or on the tanks carried on the vehicle.

(c) An application to license a vehicle for minnow transport or export or for use as a fish vendor that is received by the commissioner is a temporary license until it is approved or denied.

**History:** 1992 c 566 s 5; 1993 c 226 s 6,7

#### **17.4986 IMPORTATION OF AQUATIC LIFE.**

**Subdivision 1. Importation and stocking restrictions.** A person may not import fish into or stock fish in the state without first obtaining a transportation permit with a disease certification when required or a bill of lading from the commissioner, unless the person is exempted.

**Subd. 2. Licensed facilities.** (a) The commissioner shall issue transportation permits to import:

(1) indigenous and naturalized species except trout, salmon, and catfish from any source to a standard facility;

(2) trout, salmon, and catfish from a nonemergency disease area to a containment facility if the fish are certified within the previous year to be free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced; and

(3) trout, salmon, and catfish from a facility in a nonemergency disease area with a disease-free history of three years or more to a standard facility, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced.

(b) If a source facility in a nonemergency disease area cannot demonstrate a history free from disease, aquatic life may only be imported into a quarantine facility.

**Subd. 3. Enzootic disease area.** (a) Except as otherwise provided and except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported into areas where the disease has been previously introduced, fish may be imported from emergency disease enzootic areas only as fertilized eggs under the following conditions:

(1) to be imported into a standard facility, fertilized eggs must have a disease-free history for at least five years;

(2) to be imported into a containment facility, fertilized eggs must have a disease-free history for at least three years; or

(3) to be imported into a quarantine facility, fertilized eggs may have a disease-free history of less than three years.

(b) A hatchery inspection must occur at least once a year and fish must have been tested for all certifiable diseases. Fish health inspections under this subdivision must comply with section 17.4982, subdivision 12.

Subd. 4. **Disease-free history.** When disease-free histories of more than one year are required for importing salmonids or catfish, the disease history must be of consecutive years that include the year previous to, or the year of, the transportation request.

**History:** 1992 c 566 s 6; 1993 c 226 s 8,9

#### 17.4987 STOCKING PRIVATE AQUATIC LIFE.

(a) A person may not release private aquatic life into public waters that are not licensed as part of an aquatic farm without first obtaining a transportation permit from the commissioner. The commissioner may deny issuance of a permit if releasing the private aquatic life is not consistent with the management plan for the public waters. The commissioner shall make management plans available to the public.

(b) If a permit is denied, the commissioner must provide reasons for the denial in writing.

**History:** 1992 c 566 s 7

#### 17.4988 LICENSE AND INSPECTION FEES.

Subdivision 1. **Requirements for issuance.** A permit or license must be issued by the commissioner if the requirements of law are met and the license and permit fees specified in this section are paid.

Subd. 2. **Aquatic farming license.** (a) The annual fee for an aquatic farming license is \$275.

(b) The aquatic farming license must contain endorsements for the rights and privileges of the following licenses under the game and fish laws. The endorsement must be made upon payment of the license fee prescribed in section 97A.475 for the following licenses:

(1) minnow dealer license;

(2) minnow retailer license for sale of minnows as bait;

(3) minnow exporting license;

(4) minnow dealer helper license;

(5) aquatic farm vehicle endorsement, which includes a minnow dealer vehicle license, a minnow retailer vehicle license, an exporting minnow hauler vehicle license, and a fish vendor vehicle license;

(6) sucker egg taking license; and

(7) game fish packers license.

Subd. 3. **Inspection fees.** The fees for the following inspections are:

(1) initial inspection of each water to be licensed, \$50;

(2) fish health inspection and certification, \$20 plus \$80 per lot thereafter; and

(3) initial inspection for containment and quarantine facility inspections, \$50.

Subd. 4. **Aquarium facility.** (a) A person may not operate an aquarium facility without an aquarium facility license issued by the commissioner. The fee for an aquarium facility license is \$15.

(b) Game fish transferred by an aquarium facility must be accompanied by a receipt containing the information required on a shipping document by section 17.4985, subdivision 3, paragraph (b).

**History:** 1992 c 566 s 8

**17.4991 DISEASE TRANSMISSION.**

**Subdivision 1. Facility designation.** (a) The licensee may apply to the commissioner for designation of all or a portion of a facility as a standard, containment, or quarantine facility on forms prescribed by the commissioner as part of the license application or separately.

(b) By 15 business days after an application is submitted, the commissioner must notify the applicant if there are any deficiencies in the application. By 30 business days after a complete application is submitted, the commissioner shall approve or deny the designation requested. A denial must include an assessment of the actual risk to wildlife populations at the particular site. A containment designation must be approved if the facility meets the disinfection requirements of subdivision 2 and complies with section 17.4982, subdivision 8.

**Subd. 2. Disinfection.** (a) Containment facilities must disinfect effluent prior to discharge to public waters. The effluent required to be disinfected includes water used by a containment facility in the production of the aquatic life of concern, waste or mortalities from the aquatic life of concern, and live forage or commercial feed discarded from the containment facility. Runoff from precipitation and excess water from natural springs, wells, or other sources that is not used in the production of aquatic life is not effluent to be disinfected.

(b) The disinfection must minimize the potential release of disease pathogens to wildlife susceptible to the pathogens based on a reasonable risk assessment. Disinfection treatment processes may include chlorination or other processes. If chlorine disinfection is utilized, a measurable residual level of 1.0 parts per million of active chlorine in the effluent must be maintained for one hour of retention time. The effluent must be sufficiently dechlorinated to prevent toxic adverse impacts to wildlife after discharge to public waters.

(c) A disinfection treatment process must ensure uninterrupted effluent treatment in the event of electrical power failure, a primary system failure, or other similar events that would cause treatment interruptions.

(d) The effluent disinfection process must be sited, designed, and operated in a manner that allows inspection by the commissioner at all times to determine whether adequate effluent disinfection is maintained.

(e) The commissioner may prescribe reasonable documentation of daily monitoring of treatment system performance to be included in the licensee's annual report. The records must be available for daily inspection by the commissioner during normal business hours and maintained for three years.

**Subd. 3. Fish health inspection.** (a) An aquatic farm propagating trout, salmon, or catfish and having an effluent discharge from the aquatic farm into public waters must have an annual fish health inspection conducted by a certified fish health inspector. Testing must be conducted according to approved laboratory methods.

(b) A health inspection fee must be charged based on each lot of fish sampled. The fee by check or money order payable to the department of natural resources must be prepaid or paid at the time a bill or notice is received from the commissioner that the inspection and processing of samples is completed.

(c) Upon receipt of payment and completion of inspection, the commissioner shall notify the operator and issue a fish health certificate. The certification must be made according to the Fish Health Blue Book by a person certified as a fish health inspector.

(d) All aquatic life in transit or held at transfer stations within the state may be inspected by the commissioner. This inspection may include the collection of stock for purposes of pathological analysis. Sample size necessary for analysis will follow guidelines listed in the Fish Health Blue Book.

(e) Salmonids and catfish must have a fish health inspection before being transported from a containment facility, unless the fish are being transported directly to an outlet for processing or other food purposes or unless the commissioner determines that an inspection is not needed. A fish health inspection conducted for this purpose need

only be done on the lot or lots of fish that will be transported. The commissioner must conduct a fish health inspection requested for this purpose within five working days of receiving written notice. Salmonids and catfish may be immediately transported from a containment facility to another containment facility once a sample has been obtained for a health inspection or once the five-day notice period has expired.

**Subd. 4. Emergency disease determination.** If emergency diseases exist, the commissioner may order the aquatic life in the facility to be impounded, confiscated, sold, or destroyed and the facility disinfected. The commissioner shall make every effort to allow disposed aquatic life to be sold for market if there is no imminent danger of a significant adverse impact on natural fish populations or of escape of the pathogen to public waters.

**Subd. 5. Aquaculture therapeutics registration.** (a) Aquaculture therapeutics must be registered and labeled in accordance with rules adopted by the commissioner of agriculture relating to drugs and feed additives.

(b) The department of agriculture may not require registration of those aquaculture therapeutics designated as low regulatory priority by the United States Food and Drug Administration.

**History:** 1992 c 566 s 9; 1993 c 226 s 10-12

#### 17.4992 GAME FISH.

**Subdivision 1. Acquisition and purchase.** Game fish sperm, viable game fish eggs, or live game fish may not be taken from public waters for aquaculture purposes, but may be purchased from the state or acquired from aquatic farms.

**Subd. 2. Restriction on the sale of game fish.** Species of the family salmonidae or ictaluridae, except bullheads, must be free of certifiable diseases if sold for stocking or transfer to another aquatic farm, except that eggs with enteric redmouth, whirling disease, or furunculosis may be transferred or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be transferred or stocked to areas where the disease has been previously introduced.

**Subd. 3. Acquisition of fish for brood stock.** Game fish brood stock may be sold to private fish hatcheries or aquatic farms by the state at fair wholesale market value. As a one-time purchase for brood stock development, up to 20 pair of adults may be provided, if available, by the state through normal operations.

**Subd. 4. Sale of eggs by the state.** The commissioner may offer for sale as eggs or fry up to two percent of the department's annual game fish egg harvest. Additional eggs or fry may be sold if they are surplus to this state's program needs.

**Subd. 5. Purchase of eggs dependent upon facility.** Licensees may purchase game fish eggs or fry from the state at a rate based on the capacity of their facility to hatch and rear fish. Licensees may purchase walleye at a rate of no more than one-half quart of eggs or 5,000 fry for each acre or fraction of licensed surface water. This limitation may be waived if an aquatic farm is an intensive culture facility. The allowable purchase of trout or salmon eggs must be based on the capacity of rearing tanks and flow of water through the aquatic farm facility.

**Subd. 6. Stocking walleyes north of marked state highway No. 210.** Walleyes from outside of the area of the state north of marked state highway No. 210 may not be stocked in waters of the state north of marked state highway No. 210 without approval by the commissioner.

**History:** 1992 c 566 s 10; 1993 c 226 s 13

#### 17.4993 MINNOWS.

**Subdivision 1. Taking from public waters.** A licensee may take minnow sperm, minnow eggs, and live minnows from public waters for aquatic farm purposes under an aquatic farm license.

**Subd. 2. Importation of live minnows.** Minnows from outside the state may not be

imported live by a licensee for purposes other than processing or feeding aquatic farm fish.

**History:** 1992 c 566 s 11

#### **17.4994 SUCKER EGGS.**

Sucker eggs may be taken from public waters with a sucker egg license endorsement, which authorizes sucker eggs to be taken at a rate of one quart of eggs for each 1-1/2 acres of licensed surface waters except that for intensive culture systems, sucker eggs may be taken at a rate of two quarts per 1,000 muskellunge fry being reared. The taking of sucker eggs from public waters is subject to chapter 97C and may be supervised by the commissioner.

**History:** 1992 c 566 s 12

#### **17.4995 RECEIPTS TO THE GAME AND FISH FUND.**

Money received by the state under sections 17.4981 to 17.4997 must be deposited in the state treasury and credited to the game and fish fund.

**History:** 1992 c 566 s 13

#### **17.4996 WHITE EARTH INDIAN RESERVATION.**

Until the commissioner reaches an agreement with the White Earth Indian Reservation regarding the acquisition and sale of aquatic life from public waters, an aquatic farm licensee may acquire and transport rough fish, as defined in section 97A.015, subdivision 43, and yellow perch lawfully acquired and possessed by a tribal member for sale under tribal laws and regulations on the White Earth Reservation. Transportation of yellow perch off the reservation must be accompanied by documentation showing the source and number of the yellow perch.

**History:** 1992 c 566 s 14

#### **17.4997 RULES.**

The commissioner may adopt rules that are consistent with sections 17.4981 to 17.4996. The commissioner must notify the Minnesota aquaculture commission and the commissioner of agriculture prior to publication of the proposed rules.

**History:** 1992 c 566 s 15

#### **17.4998 VIOLATIONS; PENALTY.**

Unless a different penalty is prescribed, a violation of a provision of sections 17.4981 to 17.4997 or a rule of the commissioner governing the operation of an aquatic farm, private fish hatchery, or quarantine facility is a misdemeanor.

**History:** 1993 c 226 s 14

#### **17.4999 STORAGE, HANDLING, AND DISPOSAL OF FISH MANURE.**

Fish manure from aquatic farm operations:

- (1) is subject to the same requirements under state law and rules as other animal manures; and
- (2) if managed in a pond system, may be applied as a manipulated manure under chapter 18C if certified by the commissioner.

**History:** 1994 c 561 s 1

### **COMMODITIES PROMOTION**

#### **17.50 POLICY.**

The state must explore alternative uses for agricultural products to enable the state's agricultural economy to reach its full potential. The state must promote and

encourage cooperative efforts between public and private interests in conducting basic research and disseminating the results on agricultural commodity utilization.

**History:** 1987 c 396 art 8 s 2

#### **17.51 CITATION; AGRICULTURAL COMMODITIES PROMOTION ACT.**

Sections 17.51 to 17.69 may be cited as the agricultural commodities promotion act.

**History:** 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.

**History:** 1969 c 1021 s 2; 1976 c 149 s 8,62 subd 2

#### **17.53 DEFINITIONS.**

**Subdivision 1. Scope of application.** As used in sections 17.51 to 17.69, the terms defined in this section shall have the following meanings.

**Subd. 2. Agricultural commodity.** (a) Except as provided in paragraph (b), "agricultural commodity" means any agricultural product, including, without limitation, animals and animal products, grown, raised, produced, or fed within Minnesota for use as food, feed, seed, or any industrial or chemurgic purpose.

(b) For wheat and barley, "agricultural commodity" means wheat and barley, including, without limitation, wheat and barley grown or produced within or outside Minnesota, for use as food, feed, seed, or any industrial or chemurgic purpose.

**Subd. 3. Commercial channels.** "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. Commissioner.** "Commissioner" means the commissioner of agriculture or a designee.

**Subd. 5. Cooperative.** "Cooperative" means a nonprofit association legally constituted under the laws of Minnesota or of another state of producers who have gathered together for purposes of bargaining for a price for marketing their commodity. This includes all cooperatives domiciled inside or outside of the state which buy commodities from Minnesota producers.

**Subd. 6. Council.** "Council" means a council created under the provisions of sections 17.51 to 17.69.

**Subd. 7. First handler.** "First handler" means a person, whether an owner, agent or other person, who initially places a commodity into commercial channels, or who is engaged in the processing of the commodity into food for human consumption in any form, except for potato flour or potato starch.

**Subd. 8. First purchaser.** (a) Except as provided in paragraph (b), "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 pri-



vate, 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 and regardless of whether the first purchaser is domiciled within the state or without. "First purchaser" does not mean the commodity credit corporation when a commodity is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

(b) For wheat and barley, "first purchaser" means a person who buys, receives delivery of, or provides storage for the agricultural commodity from a producer for movement into commercial channels; or a lienholder, secured party, or pledgee, who gains title to the agricultural commodity from the producers as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee, regardless of when the lien, security interest, or pledge was created and regardless of whether or not the first purchaser is domiciled in the state. "First purchaser" does not mean the commodity credit corporation when the wheat or barley is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

**Subd. 9. Marketing year.** "Marketing year" means a one-year period from July 1 through June 30, or any other one-year period determined by the promotion order of a specific council.

**Subd. 10. Participating producer.** "Participating producer" means a 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.

**Subd. 11. Person.** "Person" means an individual, corporation, association, cooperative or partnership.

**Subd. 12. Private processor.** "Private processor" means a privately owned commodity processor legally constituted under the laws of Minnesota for the purpose of buying or marketing the commodity and commodity products, whether the processor is domiciled within the state or without.

**Subd. 13. Producer.** (a) Except as provided in paragraph (b), "producer" means any person who owns and operates an agricultural producing or growing facility for an agricultural commodity and shares in the profits and risk of loss from such operation, and who grows, raises, feeds or produces the agricultural commodity in Minnesota during the current or preceding marketing year.

(b) For wheat and barley, "producer" means in addition to the meaning in paragraph (a) and for the purpose of the payment or the refund of the checkoff fee paid pursuant to sections 17.51 to 17.69 only, a person who delivers into, stores within, or makes the first sale of the agricultural commodity in Minnesota.

**Subd. 14. Producer-processor.** "Producer-processor" means a producer who processes and markets the producer's own product. For the purpose of collecting the checkoff fee, a producer-processor is the first purchaser.

**Subd. 15. Promotional order.** "Promotional order" means an order issued by the commissioner, with the advice and consent of a council and after a referendum pursuant to this chapter, which establishes a program for promotion, advertising, production, market research, and market development of the growing, processing, distributing, sale or handling of an agricultural commodity and provides for the collection of checkoff fees.

**Subd. 16. Qualified voter.** "Qualified voter" means a producer who would be subject to the payment of fees to finance the activities described in sections 17.51 to 17.69 and who shares directly in the profits and risk of loss from the agricultural operation which produces or grows the commodity.

**Subd. 17. Retailer.** "Retailer" means a person who sells directly to the consumer in small quantities or broken lots.

**Subd. 18. Sale.** "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest or lien after harvest.

**History:** 1969 c 1021 s 3; 1976 c 149 s 9,62 subd 2; 1982 c 582 s 1; 1986 c 444; 1994 c 452 s 1-3

**17.54 COUNCILS.**

**Subdivision 1. Creation.** A commodity research and promotion council may be created for the producers of each agricultural commodity by filing with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of sections 17.51 to 17.69. The petition must be signed by 1,000 producers or 15 percent of the producers proposed to be covered by the promotion order, whichever is less. At least two producers shall certify under oath that the petition has 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.

**Subd. 3. Nominating committee.** Within 30 days after the filing of the petition by the required number of producers of an agricultural commodity the commissioner shall appoint a nominating committee of at least five producers of that commodity who shall, within 60 days from the filing of the 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 commodity is in a lesser area, in which event the commissioner shall define the area following county lines. Whenever possible, the areas represented by council members shall correspond to state crop reporting districts as defined by the Minnesota crop and livestock reporting service.

**Subd. 4. Election.** Upon receipt of the nominations the commissioner shall promptly arrange an election to be held at places designated by the commissioner reasonably convenient to all producers in the organized area and provide notice of the election to all of the media having a general circulation in the organized area. Ballots setting forth the names of the 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. General polling procedures shall be established by the commissioner by rule pursuant to chapter 14 to avoid voting by other than qualified producers, but the selection of specific polling places shall not be subject to chapter 14. 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.

After the first council for a commodity is elected, an election shall be held annually to elect members of the council. The election shall be held in the same manner as prescribed for the first council election except that the manner of choosing nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner. Mail balloting may be permitted by the commissioner.

**Subd. 5. Terms.** At the first meeting of the first council for each commodity 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 council members elected in succeeding elections shall serve three year terms and until their successors are elected and qualified. All terms shall expire on June 30 of the last year of the term unless another date is established by the commissioner for specific councils. In the event a council member ceases to have any of the qualifications herein established, that office shall be deemed vacant. An interim vacancy on the council shall be filled by the council for the remainder of the term vacated. The successor so appointed shall be a commodity producer residing in the same crop reporting district as the former member.

**Subd. 6. Organization.** The commissioner shall serve as a member of each council without vote. Each council shall elect from its own membership a chair, a vice-chair, a secretary, and other officers the council deems appropriate. An executive committee of no more than five members including the officers may also be elected. Terms of the officers shall expire on June 30 of each year; however, they may serve until their successors have been elected but not beyond July 15.

**Subd. 7. Meetings; quorum.** Subject to the requirements of sections 17.51 to 17.69, a council shall meet at times and places as it may determine or upon call of the chair or of any three members or one-third of the council, whichever is greater. A majority of the voting members of a council shall constitute a quorum for the transaction of all business in carrying out the duties of the council.

**Subd. 8. Existing councils.** Any council established pursuant to any act on or before July 1, 1982 may maintain the number and regional distribution of council members in effect at that time and council members elected under the provisions of any act in effect prior to July 1, 1982 may serve out their terms according to those provisions. Any promotional order in effect prior to July 1, 1982 shall remain in effect until the promotional order would terminate under the terms of the promotional order itself, or under the provisions of the legislation authorizing that promotional order, or until the promotional order is terminated pursuant to section 17.64, whichever occurs first. No referendum need be held by the commissioner to establish any promotion order in effect prior to July 1, 1982. No referendum need be held by the commissioner to bring any promotion order into early compliance with Laws 1982, chapter 582, sections 1 to 11 when the proposed changes in the promotion order are requested by the council members and approved by the commissioner.

**Subd. 9. Potato industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to a Minnesota area potato research and promotion council established pursuant to Laws 1967, chapter 417, as amended, the state is divided into two areas. Area number one includes the counties of Kittson, Marshall, Polk, Pennington, Red Lake, Norman, Mahnomen, Clay, Wilkin, Roseau, Lake of the Woods, Beltrami, Clearwater, and Becker. Area number two includes the rest of the counties of the state. Sections 17.51 to 17.69 shall apply to any of the above areas of the state where the commissioner has determined that the area was organized prior to July 1, 1982, pursuant to section 30.464, subdivision 3, as amended through June 30, 1982.

**Subd. 10. Existing area potato councils.** For the purposes of sections 17.51 to 17.69, any area potato council established pursuant to section 30.465, prior to July 1, 1982 shall maintain the number and distribution of council members in effect at that time. Council members elected or appointed under the provisions of section 30.465 may serve out their terms. For the purposes of sections 17.51 to 17.69, the provisions of sections 30.462, 30.463, 30.467, 30.469 and 30.472 as amended through June 30, 1982, shall be considered to be the promotional order for an area potato council, and shall remain in effect as a promotional order until terminated or modified by referendum.

**Subd. 11. Membership and terms; area potato councils.** Notwithstanding subdivisions 3, 4, and 5, any area potato council which continues in existence pursuant to subdivision 10 shall include one voting member who is a private processor of potatoes and one voting member who represents potato wash plants. These two members shall be appointed by the governor for four-year terms coterminous with that of the governor.

**Subd. 12. Dairy industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to the dairy research and promotion council established pursuant to Laws 1969, chapter 851, as amended, the vote in the name of a cooperative association of producers may be deemed the vote of all members of that cooperative association. The commissioner shall schedule and specify procedures for bloc voting by a cooperative. A ballot prepared by the council and the commissioner shall be sent by each cooperative to all member and nonmember producers with a return envelope addressed to the commissioner. The ballot shall indicate that the coop-

erative association intends to vote in favor of or in opposition to the question. In the case of members the ballot shall indicate the expiration date of the ballot and state that if the ballot is not returned by that date the ballot shall be considered to be in favor of the vote of the association. The cooperative shall return the completed bloc vote ballot to the commissioner. A cooperative association shall not be required to bloc vote its producers but in that event it shall inform each producer of its decision and provide each producer with an individual referendum ballot with a return envelope addressed to the commissioner.

Each private processor of dairy products and each cooperative shall file with the commissioner a list of producers who market the bulk of their production with that private processor or cooperative. The polling procedures established by the commissioner pursuant to subdivision 4 shall ensure that dairy producers marketing the bulk of their production with a private processor have the option to vote in any referendum held pursuant to Laws 1982, chapter 586, sections 1 to 11.

**Subd. 13. Terms; dairy council.** Notwithstanding subdivision 5, the term of office of members of any council established for the producers of cows' milk or products derived from cows' milk shall be as provided in this subdivision. The term of office shall be two years, with the terms of half the council members expiring June 30 in odd-numbered years, and the terms of the remaining council members expiring June 30 in even-numbered years.

**History:** 1969 c 1021 s 4; 1973 c 237 s 1; 1973 c 242 s 1; 1976 c 149 s 10,62 subd 2; 1982 c 424 s 130; 1982 c 582 s 2; 1986 c 318 s 1; 1986 c 444; 1990 c 417 s 1

**17.55** [Repealed, 1982 c 582 s 14]

#### **17.56 COUNCIL TO FORMULATE AND SUBMIT PROMOTIONAL ORDER.**

**Subdivision 1. Formulation.** Within 15 days after certification by the commissioner of its election the first council for producers 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 a checkoff fee to be paid by producers to finance the proposed activities.

**Subd. 2. Hearings.** The commissioner, after consultation with the council, shall hold public hearings on the proposed promotional order in areas and at times affording reasonable opportunities for producers to attend. These hearings shall not be subject to the administrative procedure act of chapter 14. After such hearings and after consultation with the council, the commissioner shall determine whether or not the promotional order shall be amended, modified or supplemented. If changes or additions of substance are made, commissioner shall hold public hearings on the amended or supplemented promotional order.

**Subd. 3. Referendum.** Following the hearings, the 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. Notice shall also be given to other media in each county affected. A complete copy of the promotional order shall be given to each county extension office in any county involved in the referendum to afford all producers of the commodity access to complete information about the promotional order and the referendum.

**Subd. 4. Adoption.** The promotional order shall become effective if approved by a majority of those voting.

**Subd. 5. Failed referendum.** If a referendum is conducted and a proposed promotional order is not approved, the commissioner shall not conduct another referendum on any promotional order for the same commodity until one year has elapsed.

**History:** 1969 c 1021 s 6; 1973 c 242 s 2; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 3

**17.57 ADDITIONAL POWERS AND DUTIES OF COUNCIL.**

**Subdivision 1. Adoption of rules.** Each council shall at its regular meetings adopt rules consistent with sections 17.51 to 17.69 for the administration of the promotional order. These rules are not subject to the administrative procedure act of chapter 14.

**Subd. 2. Budget.** Each council shall prepare and submit to the commissioner on a date the commissioner determines an estimated budget for the operation of the promotional order.

**Subd. 3. Report.** Each council shall prepare an annual report on the programs pursuant to its promotional order for the previous operating year. The report shall be mailed to each county extension office in any county involved in the promotional order.

**Subd. 4. Collection of checkoff fees and data.** The promotion order shall provide a procedure for the collection of the checkoff fee by each council to finance promotional orders and for the collection of information and data which are necessary for the proper administration of orders.

**Subd. 5. Donations.** Each 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. 6. Right to sue and be sued.** Each 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 checkoff fees authorized by the provisions of sections 17.51 to 17.69, to sue and be sued in the name of the council to hire attorneys as necessary and to do all other things necessary to the administration and implementation of sections 17.51 to 17.69.

**Subd. 7. Financial statement.** Each council shall make available an annual financial statement of the council to any producer upon request.

**History:** 1969 c 1021 s 7; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 4; 1986 c 444

**17.58 POWERS AND DUTIES OF COMMISSIONER.**

**Subdivision 1. Contracts.** A council, with the approval of the commissioner, 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 council, with the approval of the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and prescribe the duties of the first chief administrative officer of any council established after July 1, 1982. The council, after consultation with the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and provide duties of subsequent chief administrative officers. A council may employ other personnel as it deems necessary.

**Subd. 3. General powers.** In administering sections 17.51 to 17.69, the commissioner shall have such other powers as may be conferred by law not inconsistent with the provisions of sections 17.51 to 17.69. The commissioner is authorized to cooperate with any appropriate agency of any state for the purpose of carrying out the provisions of sections 17.51 to 17.69, and in securing uniformity of administration and enforcement.

**Subd. 4. Rules.** The organization, conduct of elections, referenda, and meetings of a council and the administration of a promotional order for any commodity shall be governed by rules promulgated by the commissioner pursuant to chapter 14.

**Subd. 5. Audits.** Each year the commissioner shall conduct a fiscal audit, and at least every three years the commissioner shall conduct a compliance audit of each council. A compliance audit is an audit to determine that a council has complied with the terms of sections 17.51 to 17.69, with all other applicable federal or state laws, and with the terms of any promotional orders established.

**History:** 1969 c 1021 s 8; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 5; 1986 c 444

**17.59 FEES TO DEFRAY EXPENSES.**

**Subdivision 1. Checkoff fees.** 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 checkoff fees in amounts sufficient to defray such expenses, and shall indicate the maximum checkoff rate which shall not exceed one percent of the market value of the year's production of participating producers. Any increase in the maximum checkoff 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. 1a. Dairy industry checkoff rate.** (a) Notwithstanding subdivision 1, the Minnesota dairy research and promotion order, or any provision to the contrary in this chapter or rules adopted under this chapter, the checkoff rate applicable to the dairy research and promotion council must be equal to the maximum credit allowed under the Dairy Promotion and Research Order, adopted under the Dairy Production Stabilization Act of 1983, United States Code, title 7, sections 4501 to 4538, for producers participating in a qualified state or regional dairy product promotion or nutrition education program. The checkoff rate provided in this subdivision is effective and must be automatically adjusted without amendment to the Minnesota dairy research and promotion order.

(b) Subdivision 1 applies for the establishment of the checkoff rate applicable to the dairy research and promotion council if:

- (1) the Dairy Production Stabilization Act of 1983 is repealed;
- (2) the Dairy Promotion and Research Order is suspended or terminated, in which case subdivision 1 applies only during the period of suspension or termination; or
- (3) the federal credit for participation in a qualified state or regional dairy product or nutrition education program is eliminated.

**Subd. 2. Payment.** The commissioner shall establish the procedure for the timely payment of the checkoff fee by the producer to the council. The procedure shall be clearly outlined in the proposed promotional order. The procedure must be fair, reasonable and the checkoff fee shall be deducted by the first purchaser at the time of sale. The first purchaser shall submit to the council any checkoff fees so deducted once every 30 days in accordance with the commissioner's rules.

**Subd. 3. Financing referendums.** The commissioner shall require producers petitioning for a promotional order to deposit in advance an amount necessary to defray the expense of electing the first council, formulating an order, submitting it to referendum and issuing the order. Funds received for that purpose shall be deposited in the commodity research and promotion account. If the order is issued, the 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 checkoff fees.** Checkoff fees collected pursuant to sections 17.51 to 17.69 shall be deposited in a federally insured depository institution and shall be disbursed by the officers and employees approved by the council for the necessary expenses incurred in the administration of sections 17.51 to 17.69. Checkoff fees collected shall be used exclusively for the purpose collected and not to support or oppose a political party or a candidate for nomination or election to a public office.

**Subd. 5. Commodities research and promotion account.** All fees collected by the department under sections 17.51 to 17.69 and any other fees and income received by the department in the administration of these statutes shall be deposited in a separate account known as the commodity research and promotion account in the special revenue fund.

**History:** 1969 c 1021 s 9; 1976 c 149 s 62 subd 2; 1981 c 41 s 1-3; 1981 c 356 s 256; 1982 c 582 s 6-8; 1987 c 384 art 2 s 5; 1989 c 350 art 5 s 1; 1993 c 172 s 21

**17.60 COMPENSATION AND EXPENSES.**

Each member of a council, except the commissioner, shall be entitled to a reasonable per diem, not exceeding the same rate of compensation per day as is authorized for payment to members of advisory councils and committees pursuant to section 15.059, subdivision 3, while engaged in the performance of duties, and actual expenses incurred while attending council meetings or executive committee meetings. Payments to council members for other official business of the council require approval by the council.

*History: 1969 c 1021 s 10; 1976 c 149 s 62 subd 2; 1982 c 582 s 9; 1986 c 444*

**17.601 [Repealed, 1982 c 582 s 14]****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 compensation and terms of employment of such attorney. The provisions of chapter 8 shall not apply to this attorney.

*History: 1969 c 1021 s 11; 1976 c 149 s 62 subd 2*

**17.62 RECORDS OF THE COUNCIL.**

All of the records of a council, except as otherwise provided in this section, shall be open to the public and shall be available for inspection by any person for any lawful purpose, provided, however, that the council shall be empowered to make reasonable rules concerning the inspection of the records, the time or place of inspection, or the manner in which the information shall be made available. Financial information pertaining to individual participating producers shall not be open to the public.

*History: 1969 c 1021 s 12; 1976 c 149 s 62 subd 2; 1982 c 582 s 10*

**17.63 REFUND OF FEES.**

(a) Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, a producer of wheat or barley, or a producer of paddy wild rice, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 fully or partially refunded, provided the checkoff fee was remitted on a timely basis. The request for refund must be received in the office of the commissioner within the time specified in the promotion order following the payment of the checkoff fee. In no event shall these requests for refund be accepted more often than 12 times per year. Refund shall be made by the commissioner and council within 30 days of the request for refund provided that the checkoff fee sought to be refunded has been received. Rules governing the refund of checkoff fees for all commodities shall be formulated by the commissioner, shall be fully outlined in the promotion order, and shall be available for the information of all producers concerned with the referendum.

(b) The commissioner must allow partial refund requests from corn producers who have checked off and must allow for assignment of payment to the Minnesota corn growers association if the Minnesota corn research and promotion council requests such action by the commissioner.

(c) The Minnesota corn research and promotion council shall not elect to impose membership on any individual producer not requesting a partial refund or assignment of payment to the association.

(d) For any wheat or barley for which the checkoff fee must be paid pursuant to sections 17.51 to 17.69 and for which a checkoff fee or fee that serves a comparable purpose in a jurisdiction outside Minnesota had been previously paid for the same wheat or barley, the producer of the wheat or barley is exempt from payment of the checkoff fee. The commissioner, in consultation with the wheat research and promotion council and barley research and promotion council, shall determine jurisdictions outside of Minnesota which collect a checkoff fee or fee that serves a comparable purpose. In order

to qualify for the exemption, the producer must demonstrate to the first purchaser that a checkoff fee or fee has been paid to such a jurisdiction.

**History:** 1969 c 1021 s 13; 1976 c 149 s 62 subd 2; 1982 c 582 s 11; 1986 c 444; 1990 c 477 s 1; 1991 c 191 s 1; 1992 c 513 art 2 s 14; 1994 c 452 s 4

#### **17.64 TERMINATION OF THE ORDER.**

**Subdivision 1. By council.** The council after consultation with the commissioner and by a majority vote shall suspend or terminate a promotional order whenever it finds, after a public hearing, that an order is contrary to or does not effectuate the purposes or provisions of sections 17.51 to 17.69, provided that the suspension or termination shall not become effective until the expiration of the current marketing year.

**Subd. 2. By referendum.** Upon petition of the same number of producers as required to initiate the promotional order, the commissioner shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. The commissioner 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. The petition of producers shall include a statement certifying that the signatures are those of qualified producers of the commodity involved. The commissioner shall not conduct a referendum for termination of a promotional order if a referendum for termination of the same promotional order has been conducted within the preceding year. A hearing for a termination of an order need not be held as provided in chapter 14.

**History:** 1969 c 1021 s 14; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 12; 1986 c 444

**17.65** [Repealed, 1982 c 582 s 14]

#### **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.

**History:** 1969 c 1021 s 16

#### **17.67 PENALTY FOR VIOLATIONS.**

Any person who violates any provision of sections 17.51 to 17.69 or any rule of the commissioner promulgated pursuant to sections 17.51 to 17.69 is guilty of a misdemeanor. Any first handler who fails to make collections or to file a return or to pay any assessment within the time required by sections 17.51 to 17.69, or who files a falsified return, shall be liable to the council for the amount due, plus a penalty of six percent of the amount due, plus one percent of the amount for each month of delay. If satisfied that the delay was excusable, the council may return all or any part of the penalty. Penalties shall be paid to the council and disposed of as provided with respect to other money collected under sections 17.51 to 17.69.

**History:** 1969 c 1021 s 17; 1976 c 149 s 62 subd 2; 1982 c 582 s 13

**17.68** [Repealed, 1982 c 582 s 14]

#### **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.

**History:** 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."

*History: 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.

*History: 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 the person's 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 the other's 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 the producer owns and operates or who sells at a produce market, agricultural commodities produced by the producer 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 a 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.

*History: 1973 c 736 s 3; 1986 c 444*

### **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 14, 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 a 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, United States Code, title 7, section 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 14.57 and 14.60. 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 14.63 and 14.69. 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.

**History:** 1973 c 736 s 4; 1975 c 88 s 1,2; 1982 c 424 s 130; 1986 c 444

**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.

*History: 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 the 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 the 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 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.

*History: 1973 c 736 s 6; 1986 c 444*

**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 the commissioner 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 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.

*History: 1973 c 736 s 7; 1975 c 88 s 3; 1986 c 444*

### **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.

**History:** 1973 c 736 s 8

### 17.699 TIME LIMIT UPON DECISIONS.

The commissioner shall announce findings of fact and decisions in all cases in which the commissioner 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 decisions, the commissioner may engage the services of the bureau of mediation services, whose recommendations shall be considered in the final determination.

**History:** 1973 c 736 s 9; 1986 c 444

### 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, the commissioner shall state findings of fact and shall issue and cause to be served on the person an order 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, the commissioner shall make 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 the commissioner deems proper, modify or set aside, in whole or in part, any finding or order 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 the commissioner's findings.

**History:** 1973 c 736 s 10; 1986 c 444

### 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 14.

**History:** 1973 c 736 s 11; 1982 c 424 s 130

- 17.711 [Repealed, 1989 c 326 art 6 s 34]
- 17.712 [Repealed, 1989 c 326 art 6 s 34]
- 17.713 [Repealed, 1989 c 326 art 6 s 34]
- 17.714 [Repealed, 1989 c 326 art 6 s 34]
- 17.715 [Repealed, 1989 c 326 art 6 s 34]
- 17.7155 [Repealed, 1989 c 326 art 6 s 34]
- 17.716 [Repealed, 1989 c 326 art 6 s 34]
- 17.717 [Repealed, 1989 c 326 art 6 s 34]
- 17.718 [Repealed, 1989 c 326 art 6 s 34]
- 17.719 [Repealed, 1989 c 326 art 6 s 34]
- 17.72 [Repealed, 1989 c 326 art 6 s 34]
- 17.721 [Repealed, 1989 c 326 art 6 s 34]
- 17.722 [Repealed, 1989 c 326 art 6 s 34]
- 17.723 [Repealed, 1989 c 326 art 6 s 34]
- 17.724 [Repealed, 1975 c 227 s 10]
- 17.7241 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7242 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7243 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7244 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7245 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7246 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.725 [Repealed, 1989 c 326 art 6 s 34]
- 17.726 [Repealed, 1989 c 326 art 6 s 34]
- 17.727 [Repealed, 1989 c 326 art 6 s 34]
- 17.728 [Repealed, 1989 c 326 art 6 s 34]
- 17.7285 [Repealed, 1989 c 326 art 6 s 34]
- 17.729 [Repealed, 1989 c 326 art 6 s 34]
- 17.73 [Repealed, 1989 c 326 art 6 s 34]
- 17.74 MS 1973Supp [Repealed, 1974 c 167 s 1]
- 17.75 MS 1973Supp [Repealed, 1974 c 167 s 1]

#### **17.80 STATE AGRICULTURAL LAND PRESERVATION AND CONSERVATION POLICY.**

Subdivision 1. **Policy.** It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by:

- (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses;
- (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity;
- (c) Encouragement of planned growth and development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and
- (d) Fostering of ownership and operation of agricultural land by resident farmers.

Subd. 2. **Methods.** The legislature finds that the policy in subdivision 1 will be best met by:

- (a) Defining and locating lands well suited for the production of agricultural and forest products, and the use of that information as part of any local planning and zoning decision;
- (b) Providing local units of government with coordinating guidelines, tools and incentives to prevent the unplanned and unscheduled conversion of agricultural and open space land to other uses;

(c) Providing relief from escalating property taxes and special assessments and protection of normal farm operations in agricultural areas subject to development pressures;

(d) Development of state policy to increase implementation of soil and water conservation by farmers;

(e) Assuring that state agencies act to maximize the preservation and conservation of agricultural land and minimize the disruption of agricultural production, in accordance with local social, economic and environmental considerations of the agricultural community;

(f) Assuring that public agencies employ and promote the use of management procedures which maintain or enhance the productivity of lands well suited to the production of food and other agricultural products;

(g) Guiding the orderly development and maintenance of transportation systems in rural Minnesota while preserving agricultural land to the greatest possible extent;

(h) Guiding the orderly construction and development of energy generation and transmission systems and enhancing the development of alternative energy to meet the needs of rural and urban communities and preserve agricultural land to the greatest possible extent by reducing energy costs and minimizing the use of agricultural land for energy production facilities; and

(i) Guiding the orderly development of solid and hazardous waste management sites to meet the needs and safety of rural and urban communities and preserve agricultural land to the greatest possible extent by minimizing the use of agricultural land for waste management sites.

*History: 1982 c 512 s 1*

## 17.81 DEFINITIONS.

**Subdivision 1. Applicability.** For the purposes of sections 17.80 to 17.84, the terms defined in this section have the meanings given them.

**Subd. 2. Action which adversely affects.** "Action which adversely affects" means any of the following actions taken in respect to agricultural land which have or would have the effect of substantially restricting the agricultural use of the land: (1) acquisition for a nonagricultural use except acquisition for any unit of the outdoor recreation system described in section 86A.05, other than a trail described in subdivision 4 of that section; (2) granting of a permit, license, franchise or other official authorization for nonagricultural use; (3) lease of state-owned land for nonagricultural use except for mineral exploration or mining; or (4) granting or loaning of state funds for purposes which are not consistent with agricultural use.

**Subd. 3. Agricultural land.** "Agricultural land" means land which is in agricultural use, and which has been identified as agricultural land by a local unit of government pursuant to sections 394.21 to 394.37, 462.351 to 462.364, 366.10 to 366.19 or 473H.04, or which is composed of predominantly class I, II, III, or IV soils as identified in the land capability classification system of the United States Department of Agriculture Soil Conservation Service and the county soil survey, if completed.

**Subd. 4. Agricultural use.** "Agricultural use" means use of land for the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees, and apiary products. Wetlands, pasture and woodlands accompanying land in agricultural use shall be considered to be in agricultural use.

**Subd. 5. Agency.** "Agency" means a department identified in section 15.01, and any other agency of the state whose actions are by virtue of other law governed by the provisions of sections 17.80 to 17.84.

**Subd. 6. Commissioner.** "Commissioner" means the commissioner of agriculture.

*History: 1982 c 512 s 2*



**17.82 PROHIBITED AGENCY ACTION.**

Any agency action which the agency determines will adversely affect ten acres or more of agricultural land shall be referred to the commissioner to be reviewed and acted upon as provided in section 17.84. No agency shall take any action which adversely affects ten acres or more of agricultural land without first attempting to find alternative methods or locations for the action or otherwise attempting to reduce the adverse affects. If, after evaluating the alternatives, the agency determines that the benefit to the state from preserving the agricultural use of the land is less than the cost of implementing an alternative action, the agency shall inform the commissioner of that determination in writing.

An agency action is not subject to review under this section or section 17.84 if the action is reviewed as required by chapter 116D and the environmental review rules adopted under that chapter, or if a political subdivision is required by law to review and approve the action.

*History: 1982 c 512 s 3*

**17.83 AGENCY RULEMAKING.**

An agency proposing to adopt a rule which it determines may have a direct and substantial adverse effect on agricultural land shall include notice of the effect in the notice of rule hearing required to be filed by the agency under section 14.14, subdivision 1, and shall inform the commissioner in writing. In its statement of need and reasonableness required under section 14.14, subdivision 2, the agency shall describe the possible adverse effect on agricultural land, state what alternatives the agency considered in order to avoid or reduce the effect, and indicate why the agency elected to proceed with the proposed adoption of the rule. The administrative law judge, in the report required under section 14.50, shall include recommendations regarding actions available to the agency, including necessary amendments to the proposed rule, in order to avoid adverse effects on agricultural land as a result of implementation or enforcement of the rule.

*History: 1982 c 424 s 130; 1982 c 512 s 4; 1984 c 640 s 32*

**17.84 DUTIES OF THE COMMISSIONER.**

Within 30 days of the receipt of the notices provided in section 17.82 or 17.83, the commissioner shall review the agency's proposed action, shall negotiate with the agency, and shall recommend to the agency in writing the implementation either of the action as proposed or an alternative. In making recommendations, the commissioner shall follow the statement of policy contained in section 17.80. If the proposed agency action is the adoption of a rule, the recommendation of the commissioner shall be made a part of the record in the rule hearing. If the agency receives no response from the commissioner within 30 days, it shall be deemed a recommendation that the agency take the action as proposed.

*History: 1982 c 512 s 5*

**LABORATORY SERVICES ACCOUNT****17.85 LABORATORY SERVICES ACCOUNT.**

A laboratory services account is established in the state treasury. Payments for laboratory services performed by the laboratory services division of the department of agriculture must be deposited in the state treasury and credited to the laboratory services account. Money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the programs of the laboratory services division.

*History: 1988 c 688 art 20 s 1*

**URBAN FOREST PROMOTION  
AND DEVELOPMENT****17.86 URBAN FOREST PROMOTION AND DEVELOPMENT.**

**Subdivision 1. Overall.** The following course of action is intended as a basis for prompt action to the maximum extent practical within the limits of state, local, and commercial resources. The assignment of a basic responsibility to a particular agency is not intended to confer exclusive responsibility or authority unless specifically stated, for joint action is intended as the key to a successful program.

**Subd. 2. Research.** The University of Minnesota and its extension service in cooperation with the commissioner of agriculture shall institute a continuing research program on tree varieties most suitable for growth within the state; and the proper placement of individual trees and groups of trees in new or existing commercial, industrial, and residential settings to maximize energy saving benefits. The University of Minnesota and the commissioner shall work closely with nurseries and other suppliers of trees to assure a constant and reliable supply of the desirable varieties is available for planting.

**Subd. 3. Information.** The University of Minnesota extension service, in cooperation with the commissioners of agriculture, education, natural resources, and public service, shall serve as the principal agency for publishing and circulating information derived from research under subdivision 2 among the various municipalities and individual property owners in the state. Where practical, the extension service and department of public service shall secure the advice and assistance of various energy utilities interested and concerned with conservation. The commissioner of agriculture shall establish an information source for requests for nursery stock, to match needs of municipalities with stocks of trees available for planting from private and governmental sources.

**Subd. 4. Transportation plantings.** The commissioner of transportation shall utilize information on varieties and placement of trees to provide maximum forestation in rest areas and other areas controlled by the department. The commissioner of transportation should consider the use of trees in conjunction with solid noise walls along urban freeways to the maximum extent practical.

**Subd. 5. School Arbor Day activities.** The commissioners of education, agriculture, and natural resources, with the state arbor month committee and its individual public and private members, shall jointly work to expand and strengthen programs available to all levels of schools in forestry education and shall encourage reinstitution of Arbor Day activities. Information on desirable shade tree varieties and efficient spacing and location of shade trees shall be made available for use in related adult education courses.

**Subd. 6. Municipal action.** A city of the first or second class shall, by ordinance, require of the developer the use of properly placed trees in new subdivisions and plantings on lands dedicated to parks and open spaces. Cities of the third and fourth class may adopt such ordinances. Counties may assist and encourage the smaller cities in tree planting programs. A municipality may contract on a long-term basis with nurseries and shade tree wholesalers to assure continued availability of nursery stock of the desirable shade tree varieties.

**History:** 1990 c 445 s 1

**AGRICULTURAL CONTRACTS****17.90 DEFINITIONS.**

**Subdivision 1. Applicability.** The definitions in this section apply to sections 17.90 to 17.98.

**Subd. 2. Agricultural commodity.** "Agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oil-

seeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

Subd. 3. **Contractor.** "Contractor" means a person who in the ordinary course of business buys agricultural commodities grown or raised in this state or who contracts with a producer to grow or raise agricultural commodities in this state.

Subd. 4. **Producer.** "Producer" means a person who produces or causes to be produced an agricultural commodity in a quantity beyond the person's own family use and is able to transfer title to another or provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

**History:** 1990 c 517 s 1

### 17.91 MEDIATION; ARBITRATION.

A contract for an agricultural commodity between a contractor and a producer must contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute, either party may make a written request to the commissioner for mediation or arbitration services as specified in the contract, to facilitate resolution of the dispute.

**History:** 1990 c 517 s 2

### 17.92 RECAPTURE OF CAPITAL INVESTMENT REQUIRED BY AN AGRICULTURAL CONTRACT.

Subdivision 1. **Notice and damages to be paid.** A contractor must not terminate or cancel a contract that requires a producer of agricultural commodities to make a capital investment in buildings or equipment that cost \$100,000 or more and have a useful life of five or more years until:

(1) the producer has been given written notice of the intention to terminate or cancel the contract at least 180 days before the effective date of the termination or cancellation or as provided in subdivision 3; and

(2) the producer has been reimbursed for damages incurred by an investment in buildings or equipment that was made for the purpose of meeting minimum requirements of the contract.

Subd. 2. **Notice when producer breaches contract.** Except as provided in subdivision 3, if a producer fails to comply with the provisions of a contract that requires a capital investment subject to subdivision 1, a contractor may not terminate or cancel that contract until:

(1) the contractor has given written notice with all the reasons for the termination or cancellation at least 90 days before termination or cancellation or as provided in subdivision 3; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice.

Subd. 3. **Immediate effect of notice.** The 180-day notice period under subdivision 1, clause (1), and the 90-day notice period and 60-day notice period under subdivision 2, clauses (1) and (2), are waived and the contract may be canceled or terminated immediately if the alleged grounds for termination or cancellation are:

(1) voluntary abandonment of the contract relationship by the producer; or

(2) conviction of the producer of an offense directly related to the business conducted under the contract.

**History:** 1990 c 517 s 3

### 17.93 PARENT COMPANY RESPONSIBILITY FOR CONTRACTS OF SUBSIDIARIES.

Subdivision 1. **Licensing.** If a contractor is required to obtain a license to purchase agricultural commodities, the licensing authority may require the parent company of a license subsidiary to guarantee payment or contract performance as a condition of licensing.

**Subd. 2. Parent company liability.** If an agricultural contractor is the subsidiary of another corporation, partnership, or association, the parent corporation, partnership, or association is liable to a seller for the amount of any unpaid claim or contract performance claim if the contractor fails to pay or perform according to the terms of the contract.

*History: 1990 c 517 s 4*

#### **17.94 IMPLIED PROMISE OF GOOD FAITH.**

There is an implied promise of good faith as defined in section 336.1-201, subsection (19), by all parties in all agricultural contracts. In an action to recover damages, if the court finds that there has been a violation of this provision, damages, court costs, and attorney fees may be recovered.

*History: 1990 c 517 s 5*

#### **17.945 RULES.**

The commissioner may adopt rules to implement sections 17.90 to 17.98, including the prohibition of specific trade practices.

*History: 1990 c 517 s 6*

#### **17.95 DEPARTMENT OF AGRICULTURE OMBUDSMAN.**

A position is created in the department of agriculture to provide information, investigate complaints arising from this chapter, and provide or facilitate dispute resolutions.

*History: 1990 c 517 s 7*

#### **17.97 AGRICULTURAL INPUT PREPAYMENTS.**

If a producer makes a prepayment for agricultural production inputs that include but are not limited to seed, feed, fertilizer, pesticides, or fuel for future delivery, the producer may demand a letter of credit or bank guarantee from the provider of the inputs to ensure reimbursement if delivery does not occur.

*History: 1990 c 517 s 8*

#### **17.98 DAIRY MARKETING CONTRACTS EXCEPTED.**

Dairy marketing agreements between producers and purchasers of milk are not contracts for purposes of sections 17.90 to 17.98.

*History: 1990 c 517 s 9*

### **ENFORCEMENT OF AGRICULTURAL LAWS**

#### **17.981 DEFINITION.**

As used in sections 17.981 to 17.984, "person" means an individual, corporation, association, cooperative, or partnership.

*History: 1991 c 316 s 1*

#### **17.982 CRIMINAL AND ADMINISTRATIVE PENALTIES.**

**Subdivision 1. Criminal penalties.** A person who violates chapter 29, 31, 31A, or 34 for which a penalty has not been prescribed is guilty of a misdemeanor.

**Subd. 2. Administrative penalties.** (a) The commissioner may, as an alternative to misdemeanor prosecution, impose an administrative penalty on a person who violates a statute or rule enforceable by the commissioner. For a first violation, the commissioner may impose an administrative penalty of not more than \$1,000 for each violation. For a second or succeeding violation, the commissioner may impose an administrative penalty of not more than \$1,500 for each violation. Each day a violation continues is a separate violation.

(b) In determining the amount of the administrative penalty the commissioner may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation;
- (3) the person's history of past violations;
- (4) the number of violations;
- (5) the economic benefit from the violation; and
- (6) other factors identified in the commissioner's citation.

(c) For a second or succeeding violation, the commissioner shall determine the amount of a penalty by considering the factors in paragraph (b) and:

- (1) similarity between the violations;
- (2) time elapsed since the last violation; and
- (3) the person's response to the most recent violation.

*History: 1991 c 316 s 2*

### 17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.

**Subdivision 1. Administrative penalties; citation.** If a person has violated chapter 29, 31, 31A, 32, or 34, the commissioner may issue a written citation to the person by personal service or by certified mail. The citation shall describe the nature of the violation and the statute or rule alleged to have been violated; state the time for correction; and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 30 days if the person wishes to appeal the citation. If the person fails to appeal the citation, the citation is the final order and not subject to further review.

**Subd. 2. Failure to correct.** If a person fails to correct a violation within the time prescribed by the commissioner, the commissioner shall notify the person by certified mail of the failure to correct and the penalty amount assessed. The notice must state that the person must notify the commissioner in writing within 30 days if the person wishes to appeal the penalty. If the person fails to appeal the penalty in writing within 30 days of receipt of the notice, the penalty is a final order and not subject to further review.

**Subd. 3. Contested case.** If a person appeals a citation or a penalty assessment within the time limits in subdivisions 1 and 2, the commissioner, within 40 days after receiving the appeal, shall initiate a contested proceeding under chapter 14. The report of the administrative law judge is the final decision of the commissioner of agriculture.

*History: 1991 c 316 s 3; 1993 c 65 s 2*

### 17.984 INVESTIGATION.

**Subdivision 1. Authority.** To carry out the commissioner's enforcement duties under chapter 29, 31, 31A, 32, or 34, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

**Subd. 2. Failure to comply.** The commissioner may administer oaths, take and cause to be taken depositions of witnesses, and issue subpoenas, and may petition the district court in the county in which the premises is located to compel compliance with subpoenas or to permit an inspection.

*History: 1991 c 316 s 4; 1993 c 65 s 3*