

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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17.039 ETHICAL GUIDELINES FOR FARM ADVOCATES.

Ethical guidelines developed by the commissioner must be part of the contract with each farm advocate.

History: 1Sp2001 c 2 s 18

17.042 [Repealed, 1Sp2001 c 2 s 162]

17.06 [Repealed, 1Sp2001 c 2 s 162]

17.07 [Repealed, 1Sp2001 c 2 s 162]

17.101 PROMOTIONAL ACTIVITIES.

[For text of subs 1 to 4, see M.S.2000]

Subd. 5. **Value-added agricultural product processing and marketing grant program.** (a) For purposes of this section:

(1) "agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, dairy, dairy products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use, except ethanol; and

(2) "agricultural product processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and used or operated primarily for the processing or production of marketable products from agricultural commodities produced in Minnesota.

(b) The commissioner shall establish and implement a value-added agricultural product processing and marketing grant program to help farmers finance new cooperatives that organize for the purposes of operating agricultural product processing facilities, forming marketing cooperatives, and marketing activities related to the sale and distribution of processed agricultural products.

(c) To be eligible for this program a grantee must:

(1) be a cooperative organized under chapter 308A;

(2) certify that all of the control and equity in the cooperative is from farmers, family farm partnerships, family farm limited liability companies, or family farm corporations as defined in section 500.24, subdivision 2, who are actively engaged in agricultural commodity production;

(3) be operated primarily for the processing of agricultural commodities produced in Minnesota;

(4) receive agricultural commodities produced primarily by shareholders or members of the cooperative; and

(5) have no direct or indirect involvement in the production of agricultural commodities.

(d) The commissioner may receive applications from and make grants up to \$50,000 for feasibility, marketing analysis, assistance with organizational development, financing and managing new cooperatives, product development, development of business and marketing plans, and predesign of facilities including site analysis, development of bid specifications, preliminary blueprints and schematics, and completion of purchase agreements and other necessary legal documents to eligible cooperatives. The commissioner shall give priority to applicants who use the grants for planning costs related to an application for financial assistance from the United States Department of Agriculture, Rural Business - Cooperative Service.

History: *1Sp2001 c 2 s 19*

17.102 MINNESOTA GROWN LABEL.

[For text of subs 1 and 2, see M.S.2000]

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.

[For text of subs 4 to 6, see M.S.2000]

History: *1Sp2001 c 2 s 20*

17.1025 MINNESOTA CERTIFICATION PROGRAM.

Subdivision 1. **Establishment.** In cooperation with the University of Minnesota, the department of trade and economic development, and the board of animal health, the commissioner shall establish a program to certify agricultural production methods and agricultural products grown or processed within the state to assure the integrity of claims made by participating businesses. The commissioner may select and cooperate with private organizations that have established procedures and safeguards to justify claimed characteristics of the production process or the final certified product to conduct certification activities for third party producers.

Subd. 2. **Certification process.** The commissioner may establish guidelines for the certification program, which are not subject to chapter 14. Applications for certification must be submitted to the commissioner and must be evaluated by representatives of the commissioner, the University of Minnesota, the department of trade and economic development, other state agencies with regulatory authority or expertise in the subject matter of the application or in the certification process, and any other person named by the commissioner.

The commissioner shall make the final certification decision after the certification group prepares a recommendation. The application may be accepted, denied, or returned to the applicant for further action. The recommendation must be based upon the benefit of the certification to the producer or processor, the benefit to the state's agricultural economy, the costs to the state involved in certification and ongoing monitoring, the quality of internal and external audit controls to assure compliance with the terms of the certification, and other factors appropriate to best benefit the participants and the state.

Subd. 3. **Intellectual property.** The commissioner shall develop a logo and develop promotional material to best promote the use of certified products and procedures, and explore and implement procedures to best use the resources of the Internet in the promotion and distribution of Minnesota certified products and processes. To the extent practical, the Minnesota certification program must be coordinated with the Minnesota grown program under section 17.102 to accomplish the goals of both programs.

Subd. 4. **Certification revocation or suspension; misdemeanor.** A certification may be revoked or suspended by the commissioner without hearing if the terms of the certification are not being followed, the certification has become unused or obsolete, or the continued use of the certification is contrary to the interests of the state or the purpose of the certification program. Use of the certification after suspension or revocation is a misdemeanor and may also be enjoined by the commissioner in an action in district court.

Subd. 5. **Minnesota certified account.** A Minnesota certified account is created in the agricultural fund. The commissioner may establish fees in an amount estimated to make the certification program self-supporting. Fees may be determined on a case-by-case basis based on the services provided. All fees and reimbursements collected under this section must be deposited in the account. Money in the account, including interest earned, is annually appropriated to the commissioner to administer the Minnesota certification program.

Subd. 6. **No guarantee or warranty.** Certification does not constitute a guarantee or warranty as to any characteristic of any product or production process. The state and other parties involved in the certification decision may not be found liable for a certification or refusal to certify.

Subd. 7. **Expiration.** This section expires June 30, 2007.

History: 1Sp2001 c 2 s 21

17.108 [Repealed, 1Sp2001 c 2 s 162]

17.109 MINNESOTA GROWN MATCHING ACCOUNT.

[For text of subs 1 and 2, see M.S.2000]

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. For the purposes of this subdivision, "private contributions" includes, but is not limited to, advertising revenue, listing fees, and revenues from the development and sale of promotional materials.

[For text of subd 4, see M.S.2000]

History: 1Sp2001 c 2 s 22

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 or improved management of inputs, increasing energy production by agricultural producers, and environmental improvements.

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

(b) Loans may not exceed \$25,000 per individual applying for a loan and may not exceed \$100,000 for loans to four 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, two resident farmers of the state using organic 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;
- (2) reduce or make more efficient use of energy or inputs;
- (3) increase overall farm profitability; and
- (4) result in environmental benefits.

(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.

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.

Subd. 5. Farm manure digester technology. Appropriations in Laws 1998, chapter 401, section 6, must be used for revolving loans for demonstration projects of farm manure digester technology. Notwithstanding the limitations of subdivision 2, paragraphs (b) and (c), loans under this subdivision are no-interest loans in principal amounts not to exceed \$200,000 and may be made to any resident of this state. Loans for one or more projects must be made only after the commissioner seeks applications. Loans under this program may be used as a match for federal loans or grants. Money repaid from loans must be returned to the revolving fund for future projects.

History: *1Sp2001 c 2 s 23*

17.116 SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.

Subdivision 1. Establishment. The commissioner shall establish a grant program for sustainable agriculture methods that demonstrates best management practices, including farm input reduction or management, enterprise diversification including new crops and livestock, farm energy efficiency or production, or the transfer of technologies that enhance the environment and farm profitability. The commissioner shall use the program to demonstrate and publicize the energy efficiency, environmental benefit, and profitability of sustainable agriculture techniques or systems from production through marketing. The grants must fund research or demonstrations on farms consistent with the program objectives.

Subd. 2. Eligibility. (a) Grants may only be made to farmers, educational institutions, individuals at educational institutions, or nonprofit organizations residing or located in the state for research or 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) increased profitability for the individual farm by reducing costs or improving marketing opportunities.

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, an agricultural marketing specialist, two resident farmers of the state using

sustainable agriculture methods, two resident farmers of the state using organic 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.

History: *1Sp2001 c 2 s 24*

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 and other best management practices that reduce environmental pollution.

Subd. 2. **Authority.** The commissioner may develop administrative guidelines specifying criteria, standards, and procedures for making loans and establish, adopt rules for, and implement a program to make loans or otherwise provide funds to local units of government, federal authorities, lending institutions, and other appropriate organizations who will in turn provide loans to landowners and businesses for facilities, fixtures, equipment, or other best management practices that prevent or mitigate pollution or other adverse environmental impacts. The agriculture best management practices loan program must provide a consistent programmatic framework for the disbursement and administration of funds available to the commissioner designated to the program for protection of environmental quality or remediation or mitigation of adverse environmental impacts. The distribution of loans or funds through the program must comply with all limitations, provisions, or requirements of the respective funding sources. Unless otherwise limited by the funding source, the commissioner shall manage the program using perpetual revolving fund accounts.

Subd. 3. **Appropriations.** Up to \$140,000,000 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. In addition, the commissioner may receive appropriations from the legislature and grants or funds from other sources for implementation of the program.

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

(b) "Agricultural and environmental revolving accounts" means accounts in the agricultural fund, controlled by the commissioner, which hold funds available to the program.

(c) "Agriculture supply business" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that provides materials, equipment, or services to farmers or agriculture-related enterprises.

(d) "Allocation" means the funds awarded to an applicant for implementation of best management practices through a competitive or noncompetitive application process.

(e) "Applicant" means a local unit of government eligible to participate in this program that requests an allocation of funds as provided in subdivision 6b.

(f) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2, or other practices, techniques, and measures that have been demonstrated to the satisfaction of the commissioner to prevent or reduce adverse environmental impacts by using the most effective and practicable means of achieving environmental goals.

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

(h) "Commissioner" means the commissioner of agriculture, including when the commissioner is acting in the capacity of chair of the rural finance authority, or the designee of the commissioner.

(i) "Committed project" means an eligible project scheduled to be implemented at a future date:

(1) that has been approved and certified by the local government unit; and

(2) for which a local lender has obligated itself to offer a loan.

(j) "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.

(k) "Cost incurred" means expenses for implementation of a project accrued because the borrower has agreed to purchase equipment or is obligated to pay for services or materials already provided as a result of implementing a prior approved eligible project.

(l) "Farmer" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that regularly participates in physical labor or operations management of farming and files a Schedule F as part of filing United States Internal Revenue Service Form 1040 or indicates farming as the primary business activity under Schedule C, K, or S, or any other applicable report to the United States Internal Revenue Service.

(m) "Lender agreement" means an agreement entered into between the commissioner and a local lender which contains terms and conditions of participation in the program.

(n) "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 with the authority to participate in the program.

(o) "Local lender" means a local government unit as defined in paragraph (n), a state or federally chartered bank, a savings association, a state or federal credit union, Agribank and its affiliated organizations, or a nonprofit economic development organization or other financial lending institution approved by the commissioner.

(p) "Local revolving loan account" means the account held by a local government unit and a local lender into which principal repayments from borrowers are deposited and new loans are issued in accordance with the requirements of the program and lender agreements.

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

(r) "Program" means the agriculture best management practices loan program in this section.

(s) "Project" means one or more components or activities located within Minnesota that are required by the local government unit to be implemented for satisfactory completion of an eligible best management practice.

(t) "Rural landowner" means the owner of record of Minnesota real estate located in an area determined by the local government unit to be rural after consideration of local land use patterns, zoning regulations, jurisdictional boundaries, local community definitions, historical uses, and other pertinent local factors.

Subd. 5. Uses of funds. Use of funds under this section must be in compliance with the rules and regulations of the funding source or appropriation. Use of funds from the public facilities authority must comply 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. 5a. Agricultural and environmental revolving accounts. (a) There shall be established in the agricultural fund revolving accounts to receive appropriations and money from other sources. All repayments of loans granted under this section, including principal and interest, must be deposited into the appropriate revolving account created in this subdivision or the account created in subdivision 13. Interest earned in an account accrues to that account.

(b) The money in the revolving accounts and the account created in subdivision 13 is appropriated to the commissioner for the purposes of this section.

Subd. 6. Application. (a) Only the following local government units may apply for funds under this program:

(1) counties or their designees;

(2) soil and water conservation districts; and

(3) joint power organizations consisting of counties or their designees or soil and water conservation districts.

(b) A county may submit an application for an allocation. A county or a group of counties may designate another local government unit to submit a local allocation request on their behalf. If a county does not submit an application, and does not designate another local government unit, a soil and water conservation district may submit an application for an allocation. If the local soil and water conservation district does not submit an application, then an eligible joint powers organization may submit an application for an allocation. In all instances, there may be only one application representing any geographic area. The applicant must coordinate and submit requests on behalf of other units of government within the geographic jurisdiction of the applicant.

(c) The commissioner must prescribe forms and establish an application process for applicants to apply for an allocation of funds. 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 an allocation; and (3) prioritization or targeting of proposed activities or projects.

(d) If an application 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. Failure of an applicant to be awarded funds does not constitute a rejection of the application.

Subd. 6a. Review and ranking of applications. (a) The commissioner shall chair the subcommittee established in section 103F.761, subdivision 2, paragraph (b), for purposes of reviewing and ranking applications and recommending to the commissioner allocation amounts. The subcommittee consists of representatives of the departments of agriculture, natural resources, and health; the pollution control agency; the board of water and soil resources; the Farm Service Agency and the Natural Resource Conservation Service of the United States Department of Agriculture; the Association of Minnesota Counties; the Minnesota Association of Soil and Water Conservation

Districts; and other agencies or associations the commissioner determines are appropriate.

(b) The subcommittee must use the criteria in clauses (1) to (9) as well as other criteria it determines appropriate in carrying out the review and ranking:

(1) whether the proposed activities are identified in a comprehensive water management plan or other appropriate local planning documents as priorities;

(2) the potential that the proposed activities have for improving or protecting environmental quality;

(3) the extent that the proposed activities support areawide or multijurisdictional approaches to protecting environmental quality based on defined watershed or similar geographic areas;

(4) whether the activities are needed for compliance with existing environmental laws or rules;

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

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

(7) whether the applicant has targeted specific best management practices to resolve specific environmental problems;

(8) past performance of the applicant in completing projects identified in prior applications and allocation agreements; and

(9) whether there are off-site public benefits.

Subd. 6b. **Allocation amount.** (a) The subcommittee created in subdivision 6a shall recommend to the commissioner the amount of allocation for each applicant. This allocation must include:

(1) the amount of repayments received by the commissioner during the previous year from prior completed projects approved by the local government unit; and

(2) the amount of funds previously designated to committed projects.

(b) Within the limits of the funds available to the commissioner, the subcommittee may recommend an increased allocation award to the applicant based on:

(1) the ranking of the local government unit application under subdivision 6a; and

(2) the amount of unallocated or uncommitted funds in, or that will be received by, the agricultural and environmental revolving accounts within one year.

(c) Notwithstanding paragraphs (a) and (b), the commissioner may reserve up to two percent of all funds appropriated to the agricultural and environmental revolving accounts to be allocated to applicants that disburse or commit all of their current allocations or to local lenders who wish to provide financial assistance.

The commissioner may add, for the purposes of calculating future allocations under paragraphs (a) and (b), the loan amount for projects financed from these reserved funds to the allocation for the respective local government units in which jurisdiction the project was completed.

Subd. 7. **Payments to local lenders.** (a) Payments made from the commissioner to the local lender must be made in accordance with applicable state and federal laws and rules governing the payments and the lender agreement.

(b) Payments from the commissioner to the local lender must be disbursed on a cost-incurred basis. The request must be made in accordance with requirements and procedures established by the commissioner. Payment requests must be reviewed and approved by the commissioner.

Subd. 8. **Allocation agreement.** (a) Eligible local government units with an allocation award may enter into an allocation agreement with the commissioner and participate in this program.

(b) The allocation agreement must contain terms and conditions for participation in this program and providing of funds through this program, including, but not limited

to: program requirements, reporting requirements, project eligibility and limitations, allowable expenses, limitations, rescission and cancellation provisions, and the responsibilities of the commissioner, local government unit, and local lender.

(c) If the commissioner determines that a local government unit is not in compliance with the terms of the allocation agreement, the commissioner may rescind all or part of any allocation awarded through this program.

Subd. 9. Allocation rescission. (a) Continued availability of allocations granted to a local government unit is contingent upon the commissioner's approval of the local government unit's annual report. The commissioner shall review this annual report to ensure that the past and future uses of the funds are consistent with the comprehensive water management plan, other local planning documents, the requirements of the funding source, and compliance to program requirements. If the commissioner concludes the past or intended uses of the money are not consistent with these requirements, the commissioner shall rescind all or part of the allocation awarded to a local government unit.

(b) The commissioner may rescind funds allocated to the local government unit that are not designated to committed projects or disbursed within one year from the date of the allocation agreement.

(c) An additional year to use the undisbursed portion of an allocation may be granted by the commissioner under extenuating circumstances.

Subd. 9a. Authority and responsibilities of the local government units. (a) A local government unit that enters into an allocation agreement with the commissioner:

(1) is responsible for the local administration and implementation of the program in accordance with this section;

(2) may submit applications for allocations to the commissioner;

(3) shall identify, develop, determine eligibility, define and approve projects, designate maximum loan amounts for projects, and certify completion of projects implemented under this program. In areas where no local government unit has applied for funds under this program, the commissioner may appoint a local government unit to review and certify projects or the commissioner may assume the authority and responsibility of the local government unit;

(4) shall certify as eligible only projects that are within its geographic jurisdiction or within the geographic area identified in its local comprehensive water management plans or other local planning documents;

(5) may require withholding by the local lender of all or a portion of the loan to the borrower until satisfactory completion of all required components of a certified project;

(6) must identify which account is used to finance an approved project if the local government unit has allocations from multiple accounts in the agricultural and environmental revolving accounts;

(7) shall report to the commissioner annually the past and intended uses of allocations awarded; and

(8) may request additional funds in excess of their allocation when funds are available in the agricultural and environmental revolving accounts, as long as all other allocation awards to the local government unit have been used or committed.

(b) If a local government unit withdraws from participation in this program, the local government unit, or the commissioner in accordance with the priorities established under subdivision 6a, may designate another local government unit that is eligible under subdivision 6 as the new local government unit responsible for local administration of this program. This designated local government unit may accept responsibility and administration of allocations awarded to the former responsible local government unit.

Subd. 9b. Lender agreement. (a) Any local lender entering into a lender agreement with the commissioner may participate in this program.

(b) The lender agreement will contain terms and conditions for participation in this program and providing funds to the local lenders, including but not limited to, program requirements, loan and account management requirements, payments, repayments, term limits, allowable expenses, fee limitations, rescission and cancellation provisions, collateral and security requirements, reporting requirements, review and appeal procedure for cancellation of the loan agreement or disqualification as a local lender, and the responsibilities of the commissioner, local government unit, and local lender.

(c) If the commissioner determines that a local lender is not in compliance with the terms of the lender agreement, the commissioner may take the following actions:

(1) disqualifying the local lender as a participating lender in this program for a period of up to five years from the date that the commissioner determines noncompliance to the lender agreement; and

(2) requiring immediate or accelerated repayment of all or part of all funds provided to the local lender.

(d) Existing lender agreements, executed prior to July 1, 2001, may be amended by mutual consent of all signatory parties, to comply with this section, to establish a single allocation agreement that includes the amount of prior allocation awards and defines the terms and conditions required under subdivision 8, or to modify the amount of allocation awarded.

Subd. 10. Authority and responsibilities of local lenders. (a) Local lenders may enter into lender agreements with the commissioner.

(b) Local lenders may enter into loan agreements with borrowers to finance eligible projects under this section.

(c) The local lender shall notify the local government unit of the loan amount issued to the borrower after the closing of each loan.

(d) Local lenders with local revolving loan accounts created before July 1, 2001, may continue to retain and use those accounts in accordance with their lending agreements for the full term of those agreements.

(e) Local lenders, including local government units designating themselves as the local lender, may enter into participation agreements with other lenders.

(f) Local lenders may enter into contracts with other lenders for the limited purposes of loan review, processing and servicing, or to enter into loan agreements with borrowers to finance projects under this section. Other lenders entering into contracts with local lenders under this section must meet the definition of local lender in subdivision 4, must comply with all provisions of the lender agreement and this section, and must guarantee repayment of the loan funds to the local lender.

(g) When required by the local government unit, a local lender must withhold all or a portion of the loan disbursement for a project until notified by the local government unit that the project has been satisfactorily completed.

(h) The local lender is responsible for repaying all funds provided by the commissioner to the local lender.

(i) The local lender is responsible for collecting repayments from borrowers. If a borrower defaults on a loan issued by the local lender, it is the responsibility of the local lender to obtain repayment from the borrower. Default on the part of borrowers shall have no effect on the local lender's responsibility to repay its obligations to the commissioner whether or not the local lender fully recovers defaulted amounts from borrowers.

(j) The local lender shall provide sufficient collateral or protection to the commissioner for the funds provided to the local lender. The commissioner must approve the collateral or protection provided.

Subd. 11. Loans issued to borrower. (a) Local lenders may issue loans only for projects that are approved and certified by the local government unit as meeting priority needs identified in a comprehensive water management plan or other local planning documents, are in compliance with accepted practices, standards, specifica-

tions; or criteria, and are eligible for financing under Environmental Protection Agency or other applicable guidelines.

(b) The local lender may use any additional criteria considered necessary to determine the eligibility of borrowers for loans.

(c) Local lenders shall set the terms and conditions of loans to borrowers, except that:

- (1) no loan to a borrower may exceed \$50,000;
- (2) no loan for a project may exceed \$50,000; and
- (3) no borrower shall, at any time, have multiple loans from this program with a total outstanding loan balance of more than \$50,000.

(d) The maximum term length for conservation tillage and individual sewage treatment system projects is five years. The maximum term length for other projects in this paragraph is ten years.

(e) Fees charged at the time of closing must:

- (1) be in compliance with normal and customary practices of the local lender;
- (2) be in accordance with published fee schedules issued by the local lender;
- (3) not be based on participation program; and
- (4) be consistent with fees charged other similar types of loans offered by the local lender.

(f) The interest rate assessed to an outstanding loan balance by the local lender must not exceed three percent per year.

Subd. 11a. **Eligible projects.** All projects that remediate or mitigate adverse environmental impacts are eligible if:

- (1) the project is eligible under the allocation agreement and funding sources designated by the local government unit to finance the project; and
- (2) manure management projects remediate or mitigate impacts from facilities with less than 1,000 animal units as defined in Minnesota Rules, chapter 7020.

Subd. 12. **Data privacy.** The following data on local government units, local lenders, 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 public facilities authority shall establish an account called the agriculture best management practices revolving account to provide loans and other forms of financial assistance authorized under section 446A.07. The account must be credited with repayments.

Subd. 14. [Repealed by amendment, 1Sp2001 c 2 s 25]

Subd. 15. **Commissioner's report.** (a) The commissioner shall prepare and submit a report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture 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 and other environmental 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. **Liens against property.** (a) The amount of loans and accruing interest made by counties acting as local lenders under this section is a lien against the real property for which the improvement was made and must be assessed against the property or properties benefited unless the amount is prepaid. An amount loaned under the program and its accruing interest assessed against the property is a priority lien only against subsequent liens.

(b) The county may bill amounts due on the loan on the tax statement for the property. Enforcement of the lien created by this subdivision must, at the county's option, be in the manner set forth in chapter 580 or 581. When the amount due and all interest has been paid, the county shall file a satisfaction of the lien created under this subdivision.

(c) A county may also secure amounts due on a loan under this section by taking a purchase money security interest in equipment in accordance with chapter 336, article 9, and may enforce the purchase money security interest in accordance with chapters 336, article 9, and 565.

Subd. 17. Referendum exemption. For the purpose of obtaining a loan from the commissioner, a local government unit acting as a local lender may provide to the commissioner its general obligation note. All obligations incurred by a local government unit in obtaining a loan from the commissioner must be in accordance with chapter 475, except that so long as the obligations are issued to evidence a loan from the commissioner to the local government unit, an election is not required to authorize the obligations issued, and the amount of the obligations shall not be included in determining the net indebtedness of the local government unit under the provisions of any law or chapter limiting the indebtedness.

History: *1Sp2001 c 2 s 25*

17.136 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 21 members, but, after June 30, 1999, must include representatives from at least four environmental organizations, eight livestock producers, four experts in soil and water science, nutrient management, and animal husbandry, one commercial solid manure applicator who is not a producer, one commercial liquid manure applicator who is not a producer, and one member from an organization representing local units of government, and chairs of the senate and the house of representatives committees that deal with agricultural policy or the designees of the chairs. In addition, the departments of agriculture, health, and natural resources, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Natural Resource Conservation Service, the association of Minnesota counties, and the Farm Service Agency shall serve on the committee as ex officio nonvoting members.

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

(d) 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.

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

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

(g) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, 2003.

History: *2001 c 161 s 7*

17.139 [Repealed, 1Sp2001 c 2 s 162]

17.45 [Repealed, 1Sp2001 c 2 s 162]

17.457 RESTRICTED SPECIES.

[For text of subs 1 to 9, see M.S.2000]

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 general fund.

History: 1Sp2001 c 2 s 26

17.49 AQUACULTURE PROGRAM AND PROMOTION.

Subdivision 1. [Repealed, 2001 c 161 s 58]

[For text of subs 2 to 3, see M.S.2000]

17.53 DEFINITIONS.

[For text of subd 1, see M.S.2000]

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

[For text of subs 3 to 7, see M.S.2000]

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 private, or assignee of said lienholder, secured party or pledgee, who gains title to the agricultural commodity from the producer as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge was created 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, barley, and cultivated wild rice, "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, barley, or cultivated wild rice is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

[For text of subs 9 to 12, see M.S.2000]

Subd. 13. **Producer.** (a) Except as provided in paragraph (b), "producer" means any person who owns or 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, barley, and cultivated wild rice, "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.

[For text of subs 14 to 18, see M.S.2000]

History: *1Sp2001 c 2 s 27-29*

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 cultivated 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, barley, or cultivated wild rice 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, barley, or cultivated wild rice, the producer of the wheat, barley, or cultivated wild rice is exempt from payment of the checkoff fee. The commissioner, in consultation with the wheat research and promotion council, barley research and promotion council, and cultivated wild rice 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: *1Sp2001 c 2 s 30*

17.693 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 17.691 to 17.702, the terms defined in this section have the meanings given them.

[For text of subs 2 to 8, see M.S.2000]

History: *2001 c 161 s 57*

17.694 ACCREDITATION.

Subdivision 1. **Procedures.** Any association accredited under this section may engage in bargaining as provided for under sections 17.691 to 17.702.

(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. 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 shall notify all handlers named in the request for accreditation of an association of producers. The notice must be sent to the handlers named in the request by first class mail within ten days of the commissioner receiving the request for accreditation. The commissioner shall maintain records indicating the date of mailing.

(3) The commissioner may require all handlers of an agricultural commodity produced in a bargaining unit area as individuals to file within 30 days following 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.

(4) Data submitted to the commissioner by producer associations under clause (1) and by commodity handlers under clause (3) are private data on individuals or nonpublic data, as defined in section 13.02, subdivision 9 or 12.

Subd. 2. Bargaining unit determination. In determination of accreditation, the commissioner shall determine the appropriate bargaining unit by plant, but may define the bargaining unit by processor or company if there is a history of identical contracts offered to producers on a processor or company-wide basis. This determination shall be the unit area for the bargaining provisions of sections 17.691 to 17.702 as is applicable to associations and handlers. In making a determination, the commissioner shall define as appropriate the bargaining unit area in terms 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:

- (1) the community of interest of the producers included;
- (2) the potential serious conflicts of interests among members of the proposed unit;
- (3) the effect of exclusions on the capacity of the association to effectively bargain for the bargaining unit as defined;
- (4) the kinds, types, and subtypes of products to be classed together as agricultural commodity for which the bargaining unit is proposed;
- (5) whether the producers eligible for membership in the proposed bargaining unit meet the definition of "producer" for the agricultural commodity involved;
- (6) the wishes of the producers; and
- (7) the pattern of past marketing of the commodity.

[For text of subs 3 to 7, see M.S.2000]

History: 2001 c 161 s 57

17.696 UNFAIR PRACTICES OF HANDLERS AND ASSOCIATIONS.

[For text of subd 1, see M.S.2000]

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

- (1) 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 refuse to deal with a producer because of the exercise of the right to join and belong to or refrain from joining an association;
- (2) enter into a contract which discriminates against a producer represented by that association;
- (3) act in a manner contrary to the bylaws of the association;
- (4) coerce or intimidate a handler to breach, cancel, or terminate an agreement or marketing contract with an association or a contract with a producer;

(5) make or circulate unsubstantiated reports about the finances; management, or activities of other associations or handlers; or

(6) 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 17.702.

History: 2001 c 161 s 57

17.697 INFORMATIONAL EXCHANGES; DISPUTE RESOLUTION.

Subdivision 1. **Definition.** As used in sections 17.691 to 17.702, "informational exchange" means the mutual obligation of a handler and an association or their designated representatives to meet at a mutually agreed upon time in conformance with sections 17.691 to 17.702 and confer and provide information about their expectations for the upcoming marketing year. The informational exchange must be a serious, fair, and reasonable attempt to reach agreement by acknowledging or refuting with reason points brought up by either party with respect to the terms and conditions of a contract relative to trading between handlers and producers of the agricultural commodity. The topics may include, but are not limited to, the following:

(1) prices and terms of sale;

(2) quality specifications;

(3) quantity to be marketed by acreage or weight;

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

(5) checkoff procedures pursuant to assessments levied by the association whereby a portion of the producers' annual production payments under a contract are collected by handlers from producers within the bargaining unit and paid to the association on some other arrangement.

[For text of subs 2 to 5, see M.S.2000]

Subd. 6. **Mediation request.** An association of producers or a handler may request mediation only within ten days after the second informational exchange meeting. Written notice requesting mediation must be mailed to the commissioner and post-marked within ten days of the second informational exchange, with a copy to the nonrequesting party, and the notice for mediation must contain the last offer made by the party requesting mediation. Within three days after receiving the request for mediation, the commissioner shall require the nonrequesting party to provide reasons for rejecting the last offer made by the requesting party and revisions to the last offer that might be required to reach an agreement. The nonrequesting party will have five days from the date of the postmark to provide a response to the commissioner and also provide a copy of the response to the requesting party. The commissioner shall request the American Arbitration Association or a comparable dispute resolution organization to make available a list of at least three qualified mediators, but not more than six, for the parties to select one individual to mediate the dispute. Qualified mediators are those who have met the training requirements of Rule 114.12 of the Minnesota General Rules of Practice for the District Courts, are familiar with sections 17.691 to 17.702, and have served as mediator in at least three other commercial disputes or have commensurate experience. The handler and the association may agree on a mediator or, failing agreement, the commissioner may select the mediator from the list provided by allowing each party to strike one mediator and choosing one from the remaining names on the list.

[For text of subs 7 to 17, see M.S.2000]

Subd. 18. **Selection of arbitrator.** The arbitrator must be selected by the commissioner. The commissioner shall submit a list composed of the names of three persons knowledgeable in the marketing of the agricultural commodity from which the arbitrator must be chosen. Qualified arbitrators are those who have met the training requirements of Rule 114.12 of the Minnesota General Rules of Practice for the District Courts, are familiar with sections 17.691 to 17.702, and have served as an

arbitrator in at least three other commercial disputes or have commensurate experience. The selection must be made by the association representative and the handler representative, each striking one name from the list. If two names remain, the commissioner shall decide which one is the arbitrator.

History: 2001 c 161 s 57

17.70 VIOLATION PROCEDURE.

Subdivision 1. **Commissioner's duties.** For the purpose of sections 17.691 to 17.702, 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 17.702, 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. **Findings of fact; order.** If the commissioner determines that the person complained of has committed a practice in violation of sections 17.691 to 17.702, 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 17.702.

Subd. 3. **Dismissal.** If the commissioner is of the opinion that the person complained of has not committed a practice in violation of sections 17.691 to 17.702, the commissioner shall make findings of fact and issue an order dismissing the complaint.

[For text of subds 4 and 5, see M.S.2000]

History: 2001 c 161 s 57

17.701 RULES.

The commissioner may promulgate rules necessary for the administration of sections 17.691 to 17.702 in accordance with sections 17.691 to 17.702 and chapter 14.

History: 2001 c 161 s 57

17.703 [Repealed, 2001 c 161 s 58]

17.76 [Repealed, 2001 c 161 s 58; 1Sp2001 c 2 s 162]

17.85 LABORATORY SERVICES.

Subdivision 1. **Account.** A laboratory services account is established in the agricultural fund. Payments for laboratory services performed by the laboratory services division of the department of agriculture must be deposited in the agricultural fund 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.

Subd. 2. **Agriculture laboratory.** The agriculture laboratory exists to provide analytical and technical services in support of agency programs that protect and enhance the state's agriculture, environment, and food chain. The laboratory may provide analytical and technical services for a fee to any public or private entity as requested or required to meet department objectives in support of Minnesota agriculture and a national food safety system.

History: 1Sp2001 c 2 s 31

17.86 URBAN FOREST PROMOTION AND DEVELOPMENT.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Information.** The University of Minnesota extension service, in cooperation with the commissioners of agriculture, children, families, and learning, natural resources, and commerce, 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 the state energy office in the department of commerce 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.

[For text of subs 4 to 6, see M.S.2000]

History: *1Sp2001 c 4 art 6 s 11*

17.942 APPLICABILITY OF CONTRACT REQUIREMENTS.

The requirements for the written disclosure of material risks under section 17.91, subdivision 2; the three-day review period under section 17.941; the cover sheet requirement under section 17.942; and the contract readability requirements under section 17.943, subdivision 1, do not apply to contracts which provide for:

(1) the sale and purchase of a fixed amount of a commodity for delivery at a set price;

(2) price-later grain contracts;

(3) contracts agreed to between a processor and an accredited bargaining organization under sections 17.691 to 17.702;

(4) future contracts which involve the sale or purchase of a standardized quantity of a commodity for future delivery on a regulated commodity exchange;

(5) agricultural marketing contracts between a capital stock cooperative and its members under section 308A.205; or

(6) occasional sales between persons who produce or cause to be produced food, feed, or fiber in a quantity beyond their own family use.

History: *2001 c 161 s 57*

17.987 [Repealed, 1Sp2001 c 2 s 162]