

Agriculture CHAPTER 17

DEPARTMENT OF AGRICULTURE

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DEPARTMENT ADMINISTRATION

17.01 CREATION OF DEPARTMENT; COMMISSIONER; DEPUTY. There is hereby created a department of agriculture, which shall be in the charge of a commissioner, who shall be in unclassified service, to be known as the commissioner of agriculture, in chapter 17 called the commissioner, who shall be appointed by the governor, by and with the advice and consent of the senate for a four year term which shall coincide with the term of the governor and until his successor is duly appointed and has qualified. The governor may remove the commissioner at any time for cause after notice and hearing. On January 4, 1971, the term of the incumbent commissioner of agriculture shall expire. In case of a vacancy, the governor may appoint a commissioner who shall immediately take office and shall carry on all of the duties of the office until the next session of the legislature, when his appointment shall be submitted to the senate for approval. Before entering upon the duties of his office, he shall take and subscribe the oath required of state officials and give his bond to the state of Minnesota, to be approved by, and filed with, the secretary of state, for the sum of \$5,000, conditioned for the faithful performance of his duties. He may appoint a deputy who shall be in the unclassified service, and such other assistants, clerks, and employees as occasion may require.

[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] (6023, 53-27 1/2)

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

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

17.02 [Repealed, 1961 c 128 s 20]

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

Subd. 2. **Statistics and information.** The commissioner shall collect, compile, and supply statistics and information in regard to the agricultural products of the state and agricultural industries and, to attain this result, he shall cause to be made a complete farm census at least once in two years, and may do so annually if deemed advisable. He is authorized to have made and supplied to the auditors of the several counties suitable blanks to be used by the assessor in each precinct upon which to make the returns required by the commissioner; and, in cases where a county assessor is employed, these blanks may be supplied to such assessor, and the county and local assessors are hereby required, as a part of their duties, to fill out such blanks according to instructions. When these blanks, so filled out, are returned to the county assessor or to the county auditor they shall then be forwarded to the commissioner to be used by him to compile for distribution in suitable form to persons engaged in agriculture.

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

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

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

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

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

17.032 COUNTY AGRICULTURAL AGENTS TO SECURE DATA FOR STATISTICAL PURPOSES. Annually, on or before January first, each county agricultural agent shall forward to at least from 10 to 25 persons engaged in agricultural pursuits in his county, the same being persons who are operating farms under

average conditions existing in such county and known to be using a standard farm account, a questionnaire, to be prepared by the commissioner and supplied to such agents, containing inquiries as to the cost of production of various farm products, the amount received from the sale thereof, the average profit therefrom, and as to other matters deemed pertinent to the subject of profitable farming, with the request that the same be fully answered and returned to the county agent sending it. Thereafter such county agent shall compile the answers and data contained in the questionnaires returned to him and shall send to the commissioner a report of such compilation. The commissioner shall publish in his official bulletin any data, statistics, or information contained in such reports which in his opinion will be of use to persons engaged in agricultural pursuits.

[1921 c 491 s 3] (6120)

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

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

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

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

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

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

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

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

17.05 [Repealed, 1955 c 92 s 3]

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

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

17.07 APPROVAL OF EXPENDITURES. No expenditure of money for any purpose shall be made from any state appropriation to any agricultural, horticultural, florist, dairymen's crop improvement, poultry, live stock, or live stock 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. This section shall not apply to the state agricultural society or to county agricultural associations or other societies or associations whose books and records are required by law to be audited by any state official as a prerequisite to such payment.

[1925 c 426 art 7 s 2] (53-27)

17.08 [Repealed, 1961 c 128 s 20]

17.09 [Renumbered 17.03, subd. 4]

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

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

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

[1963 c 486 s 1]

17.11-17.13 [Repealed, 1955 c 92 s 3]

MISCELLANEOUS REGULATORY LAWS

DISCRIMINATION IN THE PURCHASE OF FARM PRODUCTS

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

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

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

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

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

17.15 DISCRIMINATION. Any person engaged in the business of buying any farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, cities, or villages, 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, city, or village, 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, city, or village, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant.

[1927 c 252 s 3; 1937 c 420 s 2; 1945 c 122 s 1] (6248-3)

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

[1927 c 252 s 4] (6248-4)

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

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

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

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

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

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

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

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

17.20 [Repealed, 1949 c 559 s 20]

MINNESOTA FERTILIZER LAW OF 1949

17.201 CITATION, MINNESOTA FERTILIZER ACT. Sections 17.201 to 17.219 shall be known as the "Minnesota fertilizer law of 1949."

[1949 c 559 s 1]

17.202 ADMINISTRATION. Sections 17.201 to 17.219, shall be administered by the commissioner of agriculture of the state of Minnesota, hereinafter referred to as the commissioner.

[1949 c 559 s 2; 1961 c 113 s 1]

17.203 DEFINITIONS. When used in sections 17.201 to 17.219:

(a) The term "person" includes individuals, partnerships, associations, firms and corporations.

(b) Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.

(c) The term "commercial fertilizer" includes both mixed fertilizer or fertilizer materials.

(d) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any recognized plant food element or compound which

is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(e) The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth, with or without inert materials.

(f) The term "distributor" means any person who offers for sale, sells, barter, or otherwise supplies commercial fertilizers.

(g) The term "sell" or "sale" includes exchange.

(h) The term "grade" means the minimum percentages of total nitrogen, available phosphoric acid, and soluble potash stated in the order given in this paragraph and, when applied to mixed fertilizers, shall be in whole numbers only.

(i) The term "brand" means the name, and other designations under which a commercial fertilizer is distributed in this state.

(j) The term "official sample" means any sample of commercial fertilizer taken by the commissioner or his agent according to methods prescribed by sections 17.201 to 17.219.

(k) The term "ton" means a net ton of two thousand pounds avoirdupois.

(l) The term "percent" or "percentage" means the percentage by weight.

(m) The term "specialty fertilizer" means any fertilizer distributed solely for use on crops grown for noncommercial purposes such as gardens, lawns, shrubs, and flowers; and may include fertilizers used for research or experimental purposes.

[1949 c 559 s 3]

17.204 REGISTRATION OF BRANDS AND GRADES. Subdivision 1. Each brand and grade of commercial fertilizer shall be registered before being offered for sale, sold, or distributed in this state. The application for registration shall be submitted in duplicate to the commissioner on forms furnished by the commissioner. Except as provided in this section, the applicant shall pay any or all of the following annual license fees before a brand or grade may be registered: (1) A fee of \$50 for each fixed location within Minnesota from which registered brands or grades are to be shipped. Any number of registered brands or grades may be shipped from a fixed location for which this license fee has been paid; (2) a total fee of \$50 for all fixed locations outside of the state from which registered brands or grades are to be shipped into this state. Any number of registered brands or grades may be shipped from fixed locations outside of the state upon payment of this fee for fixed locations outside of the state. An applicant licensed under Minnesota Statutes, Section 17.206, Subdivision 3, shall pay only those fees required by section 17.206, subdivision 3, before the applicant's brands or grades are registered. Those brands and grades sold only in packages of 25 pounds or less shall be registered and inspected for the fee set forth in Minnesota Statutes, Section 17.206, Subdivision 1. Upon approval by the commissioner a copy of the registration shall be furnished to the applicant. All registrations and licenses expire on June 30 of each year. A distributor who blends or mixes fertilizer material to a customer's order without a guaranteed analysis of the mixture shall be licensed as provided in Minnesota Statutes, Section 17.206, Subdivision 3.

Subd. 2. The application shall include the following information in the following order:

(1) The name and address of the company or person guaranteeing registration.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food in the following order and form:

(a) Until July 1, 1960, and thereafter until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of subparagraph (b) hereof, the term "guaranteed analysis" shall mean the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N).....	percent
Available Phosphoric Acid (P ₂ O ₅).....	percent
Soluble Potash (K ₂ O).....	percent

(b) At any time after July 1, 1960, that the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting label-

ing requirements among the states, he may require by regulation thereafter the "guaranteed analysis" shall be in the following form:

Total Nitrogen (N).....percent
Available Phosphorus (P).....percent
Soluble Potassium (K).....percent

provided, however, that the effective date of said regulation shall be not less than six months following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash; provided, however, that after the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade. In the case of bone, tankage, and other natural organic phosphate materials, the total phosphoric acid, but not the available, shall be guaranteed. Unacidulated mineral phosphatic materials and basic slag shall be guaranteed and labeled as to available phosphoric acid only, and as to the degree of fineness.

(4) The sources from which the nitrogen, phosphoric acid, and potash are derived.

(5) Additional plant food elements, determinable by chemical control methods, may be guaranteed only by permission of the commissioner with the advice of the director of the experiment station. When any such additional plant food elements are included in the guarantee, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the commissioner.

(6) The commissioner may permit or require the potential basicity or acidity (expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton) to be registered and guaranteed.

Subd. 3. The distributor of any brand and grade of commercial fertilizer shall not be required to register the same if it has already been registered under the Minnesota fertilizer law of 1949 by a person entitled to do so and such registration is then in effect.

Subd. 4. The plant food content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

[1949 c 559 s 4; 1959 c 117 s 1; 1963 c 483 s 1]

17.205 LABELS. (a) Any commercial fertilizer offered for sale or sold or distributed in this state in bags, barrels, or other containers shall have placed on or affixed to the container the net weight and the data, in written or printed form, required by items: 1, 2, 3, 5, and 6, of section 17.204, subdivision 2, printed either (1) on tags to be affixed to the end of the package midway between the ears or sewed on the end or (2) directly on the package in which case for bags containing 50 pounds or more the grade shall appear also on the end of the package in type that is plainly legible.

(b) If transported in bulk, the net weight and the data, in written or printed form, as required by paragraph (a) shall accompany delivery and be supplied to each and every purchaser.

[1949 c 559 s 5; 1965 c 51 s 4]

17.206 INSPECTION FEE. Subdivision 1. There shall be paid to the commissioner for all commercial fertilizers offered for sale, sold, or distributed in this state an inspection fee at the rate of ten cents per ton; provided, that products sold to manufacturers or exchanged between them are hereby exempted when used exclusively for manufacturing purposes; and provided further that, on individual packages of commercial fertilizer containing 25 pounds or less, there shall be paid in lieu of the annual license fee of \$50 and the ten cents per ton inspection fee, an annual registration fee and inspection fee of \$25 for each brand and grade sold or distributed. If a person sells commercial fertilizer in packages of 25 pounds or less, and in packages over 25 pounds, the annual registration and inspection fee of \$25 shall apply only to those brands and grades sold in packages of 25 pounds or less, and those brands and grades sold in packages over 25 pounds shall be subject to the inspection fee of ten cents per ton as provided in this section. Fees so collected shall be paid into the state treasury.

Subd. 2. Payment of the inspection fee levied by this section shall be made on the basis of semiannual tonnage reports subscribed and sworn to before a

notary, or witnessed by a duly authorized agent of the commissioner, and filed with the commissioner by the person to whom fertilizer registration is issued. The tonnage reports shall cover the semiannual periods ending June 30 and December 31, of each year and shall be filed with the commissioner not later than 30 days (which may be extended on valid reason therefor an additional 30 days, on written request to the commissioner) after the close of each semiannual period. Remittance to cover the inspection fee at the rate prescribed in this section shall accompany each tonnage report; provided also that each tonnage report shall grant to the commissioner or his authorized agent permission to verify the records upon which such statement of tonnage is based.

Subd. 3. Any distributor who blends or mixes fertilizer materials to a customer's order without a guaranteed analysis of the mixture in accordance with this section must first make application to obtain a license from the commissioner. The application for such a license shall be submitted in duplicate to the commissioner on forms furnished by the commissioner and shall be accompanied by a fee as herein prescribed which sum shall constitute the license fee in event the license is granted. If said distributor blends or mixes fertilizer materials at more than one fixed location, or by more than one mobile mechanical unit, then a license is required for each such location and for each such mobile mechanical unit. The license shall be \$50 in the case of each location but in the case of mobile units each such unit owned and operated by any one distributor shall be licensed at a rate of \$50 for the first unit and \$25 for each such additional mobile unit. The license shall expire on June 30 of each year. Each licensee shall furnish the commissioner with a confidential written statement of the tonnage of each grade of fertilizer material sold by him in this state in his blending and mixing operation. Said statement shall cover the semiannual periods ending June 30 and December 31 of each year and shall be filed with the commissioner not later than 30 days (which may be extended on valid reason therefor an additional 30 days, on written request to the commissioner) after the close of each semiannual period. In lieu of the guaranteed analysis the licensee must furnish to each and every purchaser and consumer in written or printed form, an invoice or delivery ticket showing the net weight and guaranteed analysis of each and every one of the materials used, which shall accompany delivery.

The commissioner is authorized and empowered to cancel the license as herein provided upon satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this section; provided that no license shall be revoked or refused until the licensee shall have been given a hearing by the commissioner.

[1949 c 559 s 6; 1959 c 117 s 2; 1959 c 612 s 1, 2; 1963 c 483 s 2]

17.207 COMMISSIONER, DUTIES. (a) It shall be the duty of the commissioner, who may act through his authorized agent, to sample, inspect, make analyses of, and test commercial fertilizers offered for sale, sold, or distributed within this state at such time and place and to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with the provisions of sections 17.201 to 17.219, and the commissioner shall have the further authority to obtain such additional information as he may deem advisable. The commissioner, individually or through his agent, is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers subject to the provisions of sections 17.201 to 17.219, and the rules and regulations thereto.

(b) An official fertilizer sample shall be one drawn from a lot or shipment of fertilizer sold or exposed for sale in this state in the manner prescribed by the commissioner. In sampling a lot of commercial fertilizer packaged in small containers (less than ten pounds each) a single package may constitute the official sample.

(c) The methods of analysis shall be those adopted by the commissioner from published sources such as those of the association of official agricultural chemists.

[1949 c 559 s 7]

17.208 AMOUNTS OF NITROGEN, PHOSPHORIC ACID AND SOLUBLE POTASH. Subdivision 1. Until July 1, 1960, and thereafter until the commissioner prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of sub-paragraph (b) of subdivision 2 of section 17.204, no superphosphate containing less than 18 percent available phosphoric acid nor any mixed fertilizer in which the sum of guarantees for the nitrogen, available phosphoric acid, and soluble potash totals less than 27 percent shall be offered

for sale, sold, or distributed in this state except for complete fertilizers containing one-fourth or more of their nitrogen in water-insoluble form of plant or animal origin, in which case the total nitrogen, available phosphoric acid, and soluble potash need not total more than 24 percent. The provisions of this subdivision shall not apply to specialty fertilizer which is clearly labeled for noncommercial use.

Subd. 2. At any time after July 1, 1960, when the commissioner requires by regulation that the "guaranteed analysis" shall be in the form prescribed in sub-paragraph (b) subdivision 2 of section 17.204, no superphosphate containing less than eight percent available phosphorus nor any mixed fertilizer in which the sum of the guarantees for the nitrogen, available phosphorus, and soluble potassium totals less than 20 percent shall be offered for sale, sold, or distributed in this state except for complete fertilizers containing one-fourth or more of their nitrogen in water insoluble form of plant or animal origin, in which case the total nitrogen, available phosphorus, and soluble potassium need not total more than 18 percent, except that no mixed fertilizers sold in soluble liquid form in which the sum of the guarantees for the nitrogen, available phosphorus and soluble potassium totals less than 18 percent shall be offered for sale, sold, or distributed in this state.

[1949 c 559 s 8; 1959 c 117 s 3; 1965 c 68 s 1]

17.209 HEARINGS. The commissioner may, in his discretion, hold a public hearing open to all interested parties, and with the cooperation of the director of the agricultural experiment station, prior to June 30th of each year or as nearly as practicable thereafter, promulgate a list of grades of mixed and specialty fertilizers adequate to meet the agricultural needs of the state. After this list of grades has been established, the commissioner may, with or without a public hearing, authorize the registration of additional grades.

[1949 c 559 s 9]

17.21 [Repealed, 1949 c 559 s 20]

17.211 MISBRANDED COMMERCIAL FERTILIZER. A commercial fertilizer is misbranded if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its agricultural value are made on the container or in any printed advertising matter issued by the distributor that registered said fertilizer. It shall be unlawful to sell, offer for sale or distribute a misbranded commercial fertilizer in this state.

[1949 c 559 s 10]

17.212 SALES REPORT; FAILURE TO FILE. Each person registering commercial fertilizers under the Minnesota fertilizer law of 1949, shall furnish the commissioner with a confidential written statement of the tonnage of each grade of fertilizer sold by him in this state. Said statement shall include all sales for the periods of July 1 to and including December 31 and of January 1 to and including June 30 of each year. The commissioner may, in his discretion, cancel the registration of any person failing to comply with this section if the above statement is not made within 30 days from date of the close of each period. The commissioner, however, in his discretion, may grant a reasonable extension of time. No information furnished under this section shall be disclosed in such a way as to divulge the operations of any person.

[1949 c 559 s 11; 1959 c 117 s 4]

17.213 INFORMATION, PUBLICATION. The commissioner shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial fertilizers, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses based on official samples of commercial fertilizers sold within the state as compared with the analyses guaranteed under sections 17.204 and 17.205. The information concerning production and use of commercial fertilizers shall be shown separately for the periods July 1st to December 31st and January 1st to June 30th of each year, and that no disclosure shall be made of the operations of any person.

[1949 c 559 s 12]

17.214 RULES. (a) The commissioner is authorized to prescribe and, after public hearing following due public notice, adopt such rules and regulations relating to the manufacture, sale, and distribution of commercial fertilizers as he may deem necessary to carry into effect the full intent and meaning of sections 17.201 to 17.219.

(b) The commissioner may make and publish regulations governing the labeling and distribution of soil conditioners and of such liming materials as are sold for agricultural purposes, including: limestones (carbonates), slags (silicates), burned lime (oxides), and hydrated lime (hydroxides). Such products are not to be deemed fertilizers subject to the registration and tonnage fees stated in sections 17.201 to 17.219.

(c) The commissioner is further authorized to require the registration by manufacturers or jobbers of soil inoculants or products which are sold or distributed for such purposes. The commissioner may also invoke regulations concerning the labeling of these products for specific use with the various legumes.

[1949 c 559 s 13; 1955 c 92 s 1]

17.215 REFUSAL TO REGISTER. The commissioner is authorized and empowered to cancel the registration of any commercial fertilizer or to refuse to register any brand of commercial fertilizer as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of sections 17.201 to 17.219, or any rules and regulations promulgated thereunder; but no registration shall be revoked or refused until the registrant shall have been given a hearing by the commissioner.

[1949 c 559 s 14]

17.216 ENFORCEMENT. It shall be the duty of the commissioner to issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer and to hold at a designated place when the commissioner finds said commercial fertilizer is being offered or exposed for sale in violation of any of the provisions of sections 17.201 to 17.219, or any regulation issued thereunder, until the law has been complied with and said commercial fertilizer is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority.

[1949 c 559 s 15]

17.217 SEIZURE OF PROPERTY. Any lot of commercial fertilizer not in compliance with the provisions of sections 17.201 to 17.219, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the said commercial fertilizer to be in violation of these sections and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the character of the commercial fertilizer and the laws of this state. In no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial fertilizer or for permission to process or relabel said commercial fertilizer under supervision of the commissioner to bring it into compliance with these sections.

[1949 c 559 s 16]

17.218 EXCHANGES. Nothing in sections 17.201 to 17.219 shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or manipulators who have registered their brands as required by the provisions of these sections.

[1949 c 559 s 18]

17.219 PENALTY. (a) Any person convicted of violating any of the provisions of sections 17.201 to 17.219 or any rule or regulation issued thereunder shall be adjudged guilty of a misdemeanor.

(b) It shall be the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

[1949 c 559 s 17]

17.22 [Repealed, 1949 c 559 s 20]

WILD FLOWERS

17.23 CONSERVATION OF CERTAIN WILD FLOWERS. Subdivision 1. **Prohibition.** No person within the state shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*), or any species of lady slipper (*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 is hereby authorized, and it shall be his duty, to administer this section, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of subdivision 1, it shall be his duty to assemble the facts and transmit the same to the attorney general, or, in the discretion of the commissioner, he may act through the county attorney of the county in which the violation was committed, whose duty it shall be to forthwith institute proceedings and prosecute the same against any person or persons charged with such violation. It is hereby made the duty of the county attorney to prosecute any and all cases submitted to him by the commissioner or the attorney general.

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

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

17.24 Subdivision 1. [Renumbered 17.037]

Subd. 2. [Renumbered 17.037]

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

17.25 [Renumbered 17.042]

17.26 [Repealed, 1955 c 92 s 3]

17.27 [Repealed, 1955 c 92 s 3]

17.28 [Renumbered 308.92]

17.29 Subdivision 1. [Renumbered 17.181]

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

Subd. 3. [Renumbered 30.59]

Subd. 4. [Renumbered 17.219]

17.30 [Renumbered 30.55]

17.31 [Renumbered 30.56]

17.32 [Renumbered 30.57]

17.33 [Renumbered 30.58]

17.34 [Repealed, Ex1959 c 73 s 1]

DOMESTIC FUR-BEARING ANIMALS

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

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

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

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

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

Subd. 6. **Licenses.** Before any person shall engage in business as a fur farmer he shall obtain a license therefor from the commissioner. An application for such license shall be made to the commissioner in writing, accompanied by a fee of \$5, stating the name of the applicant, the description of the premises upon which such business is to be conducted, the species of the domestic animals to

be maintained and handled thereon, and such further information as the commissioner may require. The commissioner shall grant the application and issue a license after he has determined that the application is made in good faith and with intent to carry on the business described in the application, and that the facilities are adequate therefor. All licenses issued pursuant to this section shall expire on the 31st day of December of the year for which the same is issued. Any person to whom a license has been issued may upon application, obtain a renewal license upon payment of the annual fee of \$5, which application for renewal shall be made on or before January 1 of each year. If a license renewal is not applied for on or before January 1 of each year, a penalty of 25 percent of the license fee shall be imposed. All moneys received in payment of license fees and penalties under this section shall be paid into the state treasury.

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

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

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

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

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

Subd. 12. [Expired]

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

17.36 [Renumbered 31.73]

17.37 [Repealed, 1961 c 128 s 20]

CHEMICALLY TREATED GRAIN

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

[1955 c 415 s 1]

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

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

[1955 c 415 s 2]

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

[1955 c 415 s 3]

17.44 SEIZURE OF CHEMICALLY TREATED GRAIN; RECONDITIONING. Subdivision 1. In the event grain is sold or offered for sale for the purpose of human, animal, or poultry consumption, which contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, the district court of the judicial district in which the grain is found may, upon complaint and showing made by the commissioner of agriculture, order said grain to be seized. In the

event the court finds that the grain is subject to seizure, it shall order the grain to be sold or otherwise disposed of for purposes other than human, animal, or poultry consumption. To this end the court may require the grain to be specially labeled, dyed, or otherwise altered in appearance. Upon application of the owner or any other person interested in the grain, the court shall permit such person at his own expense to recondition said grain and if, after reconditioning, it appears to the satisfaction of the court that the toxic chemicals have been removed so that the grain is no longer harmful to humans, animals, or poultry, the court then shall release the grain.

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

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

EUROPEAN RABBITS

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

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

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

COMMODITIES PROMOTION ACT

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

[1969 c 1021 s 1]

17.52 PURPOSE. It is hereby declared to be in the interest of the public welfare that Minnesota farmers who produce agricultural commodities for domestic and foreign markets shall be permitted to act separately, or jointly in cooperation with handlers, dealers and processors of such products, with the Minnesota department of agriculture, the university of Minnesota, and any other interested agencies, to promote and stimulate the use, sale and consumption of such commodities and to improve methods of production, processing and marketing thereof; it is further declared that provision for the establishment of Minnesota agricultural commodity advisory boards is deemed an appropriate means to accomplish such objectives. Sections 17.51 to 17.69 shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the commissioner of agriculture or any other agency of the state, but shall be supplementary thereto, and in aid and cooperation therewith.

[1969 c 1021 s 2]

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

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

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

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

Subd. 5. "Board" or "advisory board" means the advisory board created under the provisions of sections 17.51 to 17.69 in connection with the organization of the producers of a particular commodity as herein provided.

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

or assignee thereof, regardless of when the lien, security interest or pledge was created.

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

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

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

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

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

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

[1969 c 1021 s 3]

17.54 ADVISORY BOARDS; MEMBERSHIP; ELECTION; TERM. Subdivision 1. **Creation.** An advisory board is hereby created for the producers of each agricultural commodity who file with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of sections 17.51 to 17.69, which petition is signed by 1,500 or 15 percent, whichever is less, of the producers of such commodity. Such petition shall be certified by at least two producers to have been signed only by producers of the commodity involved.

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

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

the choice of nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner with the consent of the board.

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

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

[1969 c 1021 s 4]

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

[1969 c 1021 s 5]

17.56 ADVISORY BOARD TO FORMULATE AND SUBMIT PROMOTIONAL ORDER. Subdivision 1. **Formulation.** Within 15 days after its election the first advisory board 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 fees to be paid by producers to finance the proposed activities.

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

Subd. 3. **Referendum.** Following the hearing, or hearings, the advisory board and commissioner shall conduct a referendum on the proposed final promotional order. At least ten days' notice of the time and places of such referendum shall be published in a legal newspaper of general circulation in each county affected. In addition, direct written notice thereof shall likewise be given to each county extension office in any county involved in the referendum. Such notice shall include details of the promotional order to afford all producers of the subject commodity access to complete information about the promotional order. The promotional order shall become effective if approved by 55 percent or more of those voting in the referendum, and such order shall be applicable only to those producers of the subject commodity within the area of the state organized pursuant to sections 17.51 to 17.69. Upon completion of the referendum the commissioner shall make findings and issue an appropriate order based on said findings.

[1969 c 1021 s 6]

17.57 ADDITIONAL POWERS AND DUTIES OF ADVISORY BOARD. Subdivision 1. **Adoption of regulations and budget.** The advisory board shall (a) adopt and administer rules and regulations for the administration of the promotional order, including among other things, minimal requirements to qualify as a producer; (b) recommend amendments to the order, such amendments to be adopted only after a producer referendum in which a majority of the producers favor such

adoption; (c) prepare an annual estimated budget for the operation of the promotional order; and (d) prepare an annual report on the programs of the order, said report to be made available to the producers concerned.

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

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

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

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

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

[1969 c 1021 s 7]

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

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

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

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

[1969 c 1021 s 8]

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

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

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

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

[1969 c 1021 s 9]

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

[1969 c 1021 s 10]

17.61 LEGAL COUNSEL. The advisory board may appoint an attorney who shall act for the board and the commissioner when required. The board shall fix the compensation and terms of employment of such attorney. The provisions of chapter 8 shall not apply to this attorney.

[1969 c 1021 s 11]

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

[1969 c 1021 s 12]

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

[1969 c 1021 s 13]

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

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

[1969 c 1021 s 14]

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

[1969 c 1021 s 15]

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

[1969 c 1021 s 16]

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

[1969 c 1021 s 17]

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

[1969 c 1021 s 18]

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

[1969 c 1021 s 19]