

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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17.107 FARM EQUIPMENT SAFETY AND MAINTENANCE PROGRAM FOR YOUTH.

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

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

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

History: 1991 c 254 art 3 s 1

17.108 TROPHIC STATE LABELING.

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

- (1) 25 percent of the lakes in this state over 100 acres shall be certified as "pristine waters";
- (2) 50 percent of the lakes in this state over 100 acres shall be certified as "pure, clean, or fresh waters"; and
- (3) 75 percent of the lakes in this state over 100 acres shall be certified as "natural waters."

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

History: 1991 c 309 s 2

17.109 MINNESOTA GROWN MATCHING ACCOUNT.

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

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

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

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

History: 1991 c 254 art 3 s 29

AQUACULTURE DEVELOPMENT

17.46 SHORT TITLE.

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

History: 1991 c 309 s 3

17.47 DEFINITIONS.

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

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

Subd. 3. **Aquatic farm.** "Aquatic farm" means a facility used for the purpose of culturing private aquatic life in waters, including but not limited to artificial ponds, vats, tanks, raceways, other indoor or outdoor facilities that an aquatic farmer owns or where an aquatic farmer has exclusive control of, fish farms licensed under section 97C.209, or private fish hatcheries licensed under section 97C.211 for the sole purpose of processing or cultivating aquatic life.

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

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

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

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

History: 1991 c 309 s 4

17.49 AQUACULTURE PROGRAM AND PROMOTION.

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

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

Subd. 2a. **Development program.** The commissioner may establish a Minnesota aquaculture development and aid program that may support applied research, demon-

stration, financing, marketing, promotion, broodstock development, and other services.

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

History: 1991 c 309 s 5; 1991 c 345 art 2 s 11

17.492 [Repealed, 1991 c 309 s 17]

17.494 AQUACULTURE PERMITS; RULES.

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

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

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

History: 1991 c 309 s 6

17.495 APPEAL PROCEDURES.

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

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

History: 1991 c 309 s 7

17.496 QUARANTINE FACILITY; RULES.

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

History: 1991 c 309 s 8

17.497 EXOTIC SPECIES IMPORTATION; RULES.

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

History: 1991 c 309 s 9

17.498 RULES; FINANCIAL ASSURANCE.

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

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

- (2) classes, types, sizes, and categories of aquaculture facilities;
 - (3) temporary reversible impacts versus long-term impacts on water quality;
 - (4) effects on drinking water supplies that cause adverse human health concerns;
- and

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

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

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

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

History: 1991 c 309 s 10

17.63 REFUND OF FEES.

Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, or a producer of paddy wild rice, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 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.

History: 1991 c 191 s 1

ENFORCEMENT OF AGRICULTURAL LAWS

17.981 DEFINITION.

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

History: 1991 c 316 s 1

17.982 CRIMINAL AND ADMINISTRATIVE PENALTIES.

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

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

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

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

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

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

History: 1991 c 316 s 2

17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.

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

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

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

History: 1991 c 316 s 3

17.984 INVESTIGATION.

Subdivision 1. **Authority.** To carry out the commissioner's enforcement duties under chapter 29, 31, 31A, or 34, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information

from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

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

History: 1991 c 316 s 4