

CHAPTER 84

DEPARTMENT OF NATURAL RESOURCES

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84.01 DEPARTMENT OF NATURAL RESOURCES; COMMISSIONER APPOINTMENT.

[For text of subs 1 to 3, see M.S.1990]

Subd. 4. Before entering upon the duties of office the commissioner of natural resources shall take and subscribe an oath.

[For text of subd 5, see M.S.1990]

History: 1991 c 326 s 4

84.035 PEATLAND PROTECTION.

Subdivision 1. **Citation.** Sections 84.035 and 84.036 may be cited as the "Minnesota peatland protection act."

Subd. 2. **Findings.** The legislature finds that certain Minnesota peatlands possess unique scientific, aesthetic, vegetative, hydrologic, geologic, wildlife, wilderness, and educational values and represent the various peatland ecological types in the state. The legislature finds that it is desirable and appropriate to protect and preserve these patterned peatlands as a peatland management system through establishment and designation of certain peatland core areas as scientific and natural areas.

Subd. 3. **Definitions.** Unless language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 84.035 and 84.036, have the meanings given to them.

(a) "Winter road" means an access route which may be used by vehicles only when the substrate is frozen, except as provided in subdivision 5, paragraph (b), clause (3).

(b) "Corridors of disturbance" means rights-of-way which are in existence on the effective date of Laws 1991, chapter 354, such as ditches, ditch banks, transmission lines, pipelines, permanent roads, winter roads, and recreational trails. The existence, on the effective date of Laws 1991, chapter 354, of a corridor of disturbance may be demonstrated by physical evidence, document recorded in the office of county recorder or other public official, aerial survey, or other evidence similar to the above.

(c) "State land" means land owned by the state of Minnesota and administered by the commissioner.

Subd. 4. **Designation of peatland scientific and natural areas.** Within the peatland areas described in section 84.036, state lands are hereby established and designated as scientific and natural areas to be preserved and managed by the commissioner in accordance with subdivision 5 and section 86A.05, subdivision 5.

Subd. 5. **Activities in peatland scientific and natural areas.** Areas designated in subdivision 4 as peatland scientific and natural areas are subject to the following conditions:

(a) Except as provided in paragraph (b), all restrictions otherwise applicable to scientific and natural areas designated under section 86A.05, subdivision 5, apply to the

surface use and to any use of the mineral estate which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas, including, but not limited to, the following prohibitions:

(1) construction of any new public drainage systems after the effective date of Laws 1991, chapter 354, or improvement or repair to a public drainage system in existence on the effective date of Laws 1991, chapter 354, under authority of chapter 103E, or any other alteration of surface water or ground water levels or flows unless specifically permitted under paragraph (b), clause (5) or (6);

(2) removal of peat, sand, gravel, or other industrial minerals;

(3) exploratory boring or other exploration or removal of oil, natural gas, radioactive materials or metallic minerals which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or natural features of the peatland scientific and natural areas, except in the event of a national emergency declared by Congress;

(4) commercial timber harvesting;

(5) construction of new corridors of disturbance, of the kind defined in subdivision 3, after June 5, 1991; and

(6) ditching, draining, filling, or any other activities which modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

(b) The following activities are allowed:

(1) recreational activities, including hunting, fishing, trapping, cross-country skiing, snowshoeing, nature observation, or other recreational activities permitted in the management plan approved by the commissioner;

(2) scientific and educational work and research;

(3) maintenance of corridors of disturbance, including survey lines and preparation of winter roads, consistent with protection of the peatland ecosystem;

(4) use of corridors of disturbance unless limited by a management plan adopted by the commissioner under subdivision 6;

(5) improvements to a public drainage system in existence on the effective date of Laws 1991, chapter 354, only when it is for the protection and maintenance of the ecological integrity of the peatland scientific and natural area and when included in a management plan adopted by the commissioner under subdivision 6;

(6) repairs to a public drainage system in existence on the effective date of Laws 1991, chapter 354, which crosses a peatland scientific and natural area and is used for the purposes of providing a drainage outlet for lands outside of the peatland scientific and natural area, provided that there are no other feasible and prudent alternative means of providing the drainage outlet. The commissioner shall cooperate with the ditch authority in the determination of any feasible and prudent alternatives. No repairs which would significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas shall be made unless approved by the commissioner;

(7) motorized uses that are engaged in, on corridors of disturbance, on or before the effective date of Laws 1991, chapter 354;

(8) control of forest insects, disease, and wildfires, as described in a management plan adopted by the commissioner under subdivision 6; and

(9) geological and geophysical surveys which would not significantly modify or alter the peatland water levels or flows, peatland water chemistry, plant or animal species or communities, or other natural features of the peatland scientific and natural areas.

Subd. 6. Management plans. The commissioner shall develop a management plan for each peatland scientific and natural area designated under section 84.036 in a manner prescribed by section 86A.09.

Subd. 7. Establishing baseline ecological data. The commissioner shall establish baseline data on the ecology and biological diversity of peatland scientific and natural areas and provide for ongoing, long-term ecological monitoring to determine whether changes are occurring in the peatland scientific and natural areas. This research is intended to identify any changes occurring in peatland scientific and natural areas as a result of any permitted activities outside the peatland scientific and natural areas. This baseline data may include, but is not limited to, the history of the peatlands and their geologic origins, plant and animal communities, hydrology, water chemistry, and contaminants introduced from remote sources of atmospheric deposition.

Subd. 8. Ditch abandonments. In order to eliminate repairs or improvements to any public drainage system that crosses a peatland scientific and natural area in those instances where the repair or improvement adversely affects an area, the commissioner may petition for the abandonment of parts of the public drainage system under section 106A.811. If the public drainage system is necessary as a drainage outlet for lands outside of the peatland scientific and natural area, the commissioner will cooperate with the ditch authority in the development of feasible and prudent alternative means of providing a drainage outlet which avoids the crossing of and damage to the peatland scientific and natural area. In so doing, the commissioner shall grant flowage easements to the ditch authority for disposal of the outlet water on other state lands. The ditch authority shall approve the abandonment of parts of any public drainage system crossing a peatland scientific and natural area if the public drainage system crossing of those areas is not necessary as a drainage outlet for lands outside of the areas or if there are feasible and prudent alternative means of providing a drainage outlet without crossing such areas. In any abandonment under this subdivision the commissioner may enter into an agreement with the ditch authority regarding apportionment of costs and, contingent upon appropriations of money for that purpose, may agree to pay a reasonable share of the cost of abandonment.

Subd. 9. Compensation for trust fund lands. The commissioner shall acquire by exchange or eminent domain the surface interests, including peat, on trust fund lands contained in peatland scientific and natural areas established in subdivision 4.

Subd. 10. Acquisition of peatland scientific and natural areas. The commissioner may acquire by purchase the surface interests, including peat, of lands within the boundaries of the peatland areas described in section 84.036, that are owned, or that hereafter become owned, by the state and administered by the local county board.

The commissioner shall designate any land acquired under this subdivision as peatland scientific and natural area and preserve and administer any land so acquired and designated in accordance with subdivision 5 and section 86A.05.

History: 1991 c 354 art 8 s 1

84.036 PEATLAND SCIENTIFIC AND NATURAL AREAS; DESIGNATION.

The following scientific and natural areas are established and are composed of all of the core peatland areas identified on maps in the 1984 commissioner of natural resources report, "Recommendations for the Protection of Ecologically Significant Peatlands in Minnesota" and maps on file at the department of natural resources:

(1) Red Lake Scientific and Natural Area in Beltrami, Koochiching, and Lake of the Woods counties;

(2) Myrtle Lake Scientific and Natural Area in Koochiching county;

(3) Lost River Scientific and Natural Area in Koochiching county;

(4) North Black River Scientific and Natural Area in Koochiching county;

(5) Sand Lake Scientific and Natural Area in Lake county;

(6) Mulligan Lake Scientific and Natural Area in Lake of the Woods county;

(7) Lost Lake Scientific and Natural Area in St. Louis county;

(8) Pine Creek Scientific and Natural Area in Roseau county;

(9) Hole in the Bog Scientific and Natural Area in Cass county;

- (10) Wawina Scientific and Natural Area in St. Louis county;
- (11) Nett Lake Scientific and Natural Area in Koochiching county;
- (12) East Rat Root River Scientific and Natural Area in Koochiching county;
- (13) South Black River Scientific and Natural Area in Koochiching county;
- (14) Winter Road Lake Scientific and Natural Area in Koochiching county;
- (15) Sprague Creek Scientific and Natural Area in Roseau county;
- (16) Luxemburg Scientific and Natural Area in Roseau county;
- (17) West Rat Root River Scientific and Natural Area in Koochiching county; and
- (18) Norris Camp Scientific and Natural Area in Lake of the Woods county.

History: 1991 c 354 art 8 s 2

84.081 DEPARTMENT DIVISIONS AND BUREAUS.

[For text of subd 1, see M.S.1990]

Subd. 2. [Repealed, 1991 c 326 s 27]

[For text of subd 3, see M.S.1990]

84.085 ACCEPTANCE OF GIFTS.

Subdivision 1. **Authority.** (a) The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 120.85.

Subd. 2. **Wetlands.** The commissioner of natural resources must accept a gift, bequest, devise, or grant of wetlands, as defined in section 103G.005, subdivision 19, or public waters wetlands, as defined in section 103G.005, subdivision 18, unless:

(1) the commissioner determines that the value of the wetland for water quality, floodwater retention, public recreation, wildlife habitat, or other public benefits is minimal;

(2) the wetland has been degraded by activities conducted without a required permit by the person offering the wetland and the person has not taken actions determined by the commissioner to be necessary to restore the wetland;

(3) the commissioner determines that the wetland has been contaminated by a hazardous substance as defined in section 115B.02, subdivision 8, a pollutant or contaminant as defined in section 115B.02, subdivision 13, or petroleum as defined in section 115C.02, subdivision 10, and the contamination has not been remedied as required under chapter 115B or 115C;

(4) the wetland is subject to a lien or other encumbrance; or

(5) the commissioner, after reasonable effort, has been unable to obtain an access to the wetland.

History: 1991 c 354 art 10 s 1

84.0855 SPECIAL RECEIPTS; APPROPRIATION.

Money received by the commissioner of natural resources as fees for seminars or workshops, from the sale of publications and maps, from the sale of other natural resource related merchandise at the state fair, or to buy supplies for the use of volun-

teers, may be credited to one or more special accounts in the state treasury and is appropriated to the commissioner for the purposes for which the money was received. Money received from sales at the state fair shall be available for state fair related costs.

History: 1991 c 254 art 2 s 4

84.091 AQUATIC VEGETATION IN PUBLIC WATERS.

[For text of subd 1, see M.S.1990]

Subd. 2. License required; exception. (a) Except as provided in paragraph (b), a person may not harvest, buy, sell, transport, or possess aquatic plants without a license required under this chapter. A license shall be issued in the same manner as provided under the game and fish laws.

(b) A resident under the age of 16 years may harvest wild rice without a license, if accompanied by a person with a wild rice license.

[For text of subd 3, see M.S.1990]

History: 1991 c 200 s 1

84.82 SNOWMOBILE REGISTRATION.

[For text of subd 1a, see M.S.1990]

Subd. 2. Application, issuance, reports. Application for registration or reregistration shall be made to the commissioner of natural resources, or the commissioner of public safety or an authorized deputy registrar of motor vehicles in such form as the commissioner of public safety shall prescribe, and shall state the name and address of every owner of the snowmobile and be signed by at least one owner. A person who purchases a snowmobile from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a temporary registration permit to each purchaser who applies to the dealer for registration. The temporary registration is valid for 60 days from the date of issue. Each retail dealer shall submit completed registration and fees to the deputy registrar at least once a week. Upon receipt of the application and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number assigned which shall be affixed to the snowmobile in such manner as the commissioner of natural resources shall prescribe. Each deputy registrar of motor vehicles acting pursuant to section 168.33, shall also be a deputy registrar of snowmobiles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with these accounting and procedural requirements. A fee of 50 cents in addition to that otherwise prescribed by law shall be charged for each snowmobile registered by the registrar or a deputy registrar. The additional fee shall be disposed of in the manner provided in section 168.33, subdivision 2.

Subd. 3. Fees for registration. (a) The fee for registration of each snowmobile, other than those used for an agricultural purpose, as defined in section 84.92, subdivision 1c, or those registered by a dealer or manufacturer pursuant to clause (b) or (c) shall be as follows: \$30 for three years and \$4 for a duplicate or transfer.

(b) The total registration fee for all snowmobiles owned by a dealer and operated for demonstration or testing purposes shall be \$50 per year.

(c) The total registration fee for all snowmobiles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes shall be \$150 per year. Dealer and manufacturer registrations are not transferable.

[For text of subds 4 to 8, see M.S.1990]

Subd. 10. Proof of sales tax payment. A person applying for initial registration of a snowmobile must provide a snowmobile purchaser's certificate, showing a complete

description of the snowmobile, the seller's name and address, the full purchase price of the snowmobile, and the trade-in allowance, if any. The certificate must include information showing either (1) that the sales and use tax under chapter 297A was paid or (2) the purchase was exempt from tax under chapter 297A. The commissioner of public safety, in consultation with the commissioner and the commissioner of revenue, shall prescribe the form of the certificate.

History: 1991 c 254 art 2 s 5,6; 1991 c 291 art 8 s 1

84.944 ACQUISITION OF CRITICAL NATURAL HABITAT.

Subdivision 1. **Acquisition considerations.** (a) In determining what critical natural habitat shall be acquired or improved, the commissioner shall consider:

(1) the significance of the land or water as existing or potential habitat for fish and wildlife and providing fish and wildlife oriented recreation;

(2) the significance of the land, water, or habitat improvement to maintain or enhance native plant, fish, or wildlife species designated as endangered or threatened under section 84.0895;

(3) the presence of native ecological communities that are now uncommon or diminishing; and

(4) the significance of the land, water or habitat improvement to protect or enhance natural features within or contiguous to natural areas including fish spawning areas, wildlife management areas, scientific and natural areas, riparian habitat and fish and wildlife management projects.

(b) Based on the above clauses, the commissioner by rule must establish a process to prioritize what critical habitat shall be acquired or improved.

Subd. 2. **Designation of acquired sites.** The critical natural habitat acquired in fee title by the commissioner under this section shall be designated by the commissioner as: (1) an outdoor recreation unit pursuant to section 86A.07, subdivision 3, or (2) as provided in sections 97A.101, 97A.125, 97C.001, and 97C.011. The commissioner may so designate any critical natural habitat acquired in less than fee title.

[For text of subd 3, see M.S.1990]

History: 1991 c 254 art 2 s 7; 1991 c 259 s 7

NOTE: Subdivision 1, as amended by Laws 1991, chapter 259, section 7, is effective July 1, 1992. See Laws 1991, chapter 259, section 25.

84.96 NATIVE PRAIRIE BANK.

[For text of subds 1 to 4, see M.S.1990]

Subd. 5. **Payments.** (a) The commissioner must make payments to the landowner under this subdivision for the easement.

(b) For a permanent easement, the commissioner must pay 65 percent of the permanent marginal agricultural land payment rate as established by the board of water and soil resources for the time period when the application is made.

(c) For an easement of limited duration, the commissioner must pay 65 percent of the permanent prairie bank easement rate for the time period when the application is made.

(d) To maintain and protect native prairies, the commissioner may enter into easements that allow selected agricultural practices. Payment must be based on paragraph (b) or (c) but may be reduced due to the agricultural practices allowed after negotiation with the landowner.

[For text of subds 6 to 9, see M.S.1990]

History: 1991 c 254 art 2 s 8

ECOLOGICALLY HARMFUL SPECIES

84.967 ECOLOGICALLY HARMFUL SPECIES; DEFINITION.

For the purposes of sections 84.967 to 84.9691, "ecologically harmful exotic species" means nonnative aquatic plants or wild animals that can naturalize, have high propagation potential, are highly competitive for limiting factors, and cause displacement of, or otherwise threaten, native plants or native animals in their natural communities.

History: 1991 c 241 s 1; 1991 c 254 art 2 s 9

84.968 ECOLOGICALLY HARMFUL EXOTIC SPECIES MANAGEMENT PLAN.

By January 1, 1993, a long-term statewide ecologically harmful exotic species management plan must be prepared by the commissioner of natural resources and address the following:

- (1) coordinated detection and prevention of accidental introductions;
- (2) coordinated dissemination of information about ecologically harmful exotic species among resource management agencies and organizations;
- (3) a coordinated public awareness campaign regarding ecologically harmful exotic animals and aquatic plants;
- (4) a process, where none exists, to designate and classify ecologically harmful exotic species into the following categories:
 - (i) undesirable wild animals that must not be sold, propagated, possessed, or transported; and
 - (ii) undesirable aquatic exotic plants that must not be sold, propagated, possessed, or transported;
- (5) coordination of control and eradication of ecologically harmful exotic species on public lands and public waters; and
- (6) development of a list of exotic wild animal species intended for nonagricultural purposes, or propagation for release by state agencies or the private sector.

History: 1991 c 241 s 2; 1991 c 254 art 2 s 10

84.969 COORDINATING PROGRAM, GRANTS, AND REGIONAL COOPERATION.

Subdivision 1. Coordinating program. The commissioner of natural resources shall establish a statewide coordinating program to prevent and curb the spread of ecologically harmful exotic animals and aquatic plants.

Subd. 2. Grants. The coordinating program created in subdivision 1 may accept gifts, donations, and grants to accomplish its duties and must seek available federal grants through the federal Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A portion of these funds shall be used to implement the plan under section 84.968.

Subd. 3. Regional cooperation. The governor may cooperate, individually and regionally, with other state governors in the midwest for the purposes of ecologically harmful exotic species management and control.

History: 1991 c 241 s 3; 1991 c 254 art 2 s 11

84.9691 RULEMAKING.

The commissioner of natural resources may adopt rules, including emergency rules, to restrict the introduction, propagation, use, possession, and spread of ecologically harmful exotic animals and aquatic plants in the state.

History: 1991 c 241 s 4; 1991 c 254 art 2 s 12