

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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17.135 FARM DISPOSAL OF SOLID WASTE.

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

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

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

History: 1993 c 249 s 5

FARMED CERVIDAE**17.451 DEFINITIONS.**

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

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

- (1) raised for the purpose of producing fiber, meat, or animal by-products or as breeding stock;
- (2) held in a constructed enclosure designed to prevent escape; and
- (3) registered in a manner approved by the board of animal health and marked or identified with a unique number or other system approved by the board.

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

History: 1993 c 375 art 9 s 1

17.452 FARM-RAISED CERVIDAE.

Subdivision 1. **Promotion and coordination.** (a) The commissioner shall promote the commercial raising of farmed cervidae and shall coordinate programs and rules related to the commercial raising of farmed cervidae. Farmed cervidae research, proj-

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 10. Fencing. (a) Farmed cervidae must be confined in a manner designed

to prevent escape. Fencing must meet the requirements in this subdivision unless an alternative is specifically approved by the commissioner. The board of animal health shall follow the guidelines established by the United States Department of Agriculture in the program for eradication of bovine tuberculosis. Fencing must be of the following heights:

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

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

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

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

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

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

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

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

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

History: 1993 c 375 art 9 s 2

RATITAE

17.453 DEFINITIONS.

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

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

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

History: 1993 c 375 art 9 s 3

17.454 RATITAE.

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

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

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

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

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

History: 1993 c 375 art 9 s 4

LLAMA

17.455 DEFINITIONS.

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

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

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

History: 1993 c 375 art 9 s 5

17.456 LLAMA.

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

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

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

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

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

History: 1993 c 375 art 9 s 6

17.49 AQUACULTURE PROGRAM AND PROMOTION.

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

[For text of subs 2 to 3, see M.S.1992]

History: 1993 c 163 art 1 s 1

17.4982 DEFINITIONS.

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

[For text of subd 2, see M.S.1992]

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

[For text of subds 3 to 7, see M.S.1992]

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

- (1) disinfects its effluent to the standards in section 17.4991 before the effluent is discharged to public waters;
- (2) does not discharge to public waters or to waters of the state directly connected to public waters;
- (3) raises aquatic life for food consumption only;
- (4) contains aquatic life requiring a fish health inspection prior to transportation.

[For text of subds 9 to 22, see M.S.1992]

History: 1993 c 226 s 1-3

17.4983 AQUATIC FARM OPERATIONS.

[For text of subd 1, see M.S.1992]

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

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

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

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

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

[For text of subds 3 to 7, see M.S.1992]

History: 1993 c 226 s 4

17.4984 AQUATIC FARM LICENSE.

[For text of subd 1, see M.S.1992]

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

(1) the specific waters of the state that may be used in connection with the licensed aquatic farm and the species approved for each licensed water; and

(2) whether aeration requiring a permit is approved.

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

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

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

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

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

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

[For text of subs 3 to 7, see M.S.1992]

History: 1993 c 226 s 5

17.4985 TRANSPORTATION OF AQUATIC LIFE.

[For text of subd 1, see M.S.1992]

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

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

(2) stocking of waters other than public waters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[For text of subs 4 to 6, see M.S.1992]

History: 1993 c 226 s 6,7

17.4986 IMPORTATION OF AQUATIC LIFE.

[For text of subd 1, see M.S.1992]

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

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

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

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

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

[For text of subd 3, see M.S.1992]

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

History: 1993 c 226 s 8,9

17.4991 DISEASE TRANSMISSION.

[For text of subds 1 and 2, see M.S.1992]

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

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

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

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

(e) Salmonids and catfish must have a fish health inspection before being transported from a containment facility, unless the fish are being transported directly to an outlet for processing or other food purposes or unless the commissioner determines that an inspection is not needed. A fish health inspection conducted for this purpose need only be done on the lot or lots of fish that will be transported. The commissioner must conduct a fish health inspection requested for this purpose within five working days of receiving written notice. Salmonids and catfish may be immediately transported from a containment facility to another containment facility once a sample has been obtained for a health inspection or once the five-day notice period has expired.

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

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

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

History: 1993 c 226 s 10-12

17.4992 GAME FISH.

[For text of subds 1 and 2, see M.S.1992]

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

[For text of subds 4 to 6, see M.S.1992]

History: 1993 c 226 s 13

17.4998 VIOLATIONS; PENALTY.

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

History: 1993 c 226 s 14

17.59 FEES TO DEFRAY EXPENSES.

[For text of subs 1 to 4, see M.S.1992]

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

History: 1993 c 172 s 21

17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.

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

[For text of subs 2 and 3, see M.S.1992]

History: 1993 c 65 s 2

17.984 INVESTIGATION.

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

[For text of subd 2, see M.S.1992]

History: 1993 c 65 s 3