

## CHAPTER 17

### DEPARTMENT OF AGRICULTURE

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#### 17.03 POWERS AND DUTIES OF COMMISSIONER.

*[For text of subds 1 to 10, see M.S.1994]*

**Subd. 11. Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and
- (7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

**History:** 1995 c 248 art 11 s 3

#### 17.101 PROMOTIONAL ACTIVITIES.

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Agricultural development grants.** In order to carry out the duties in subdivision 1, the commissioner, in addition to whatever other resources the department may commit, shall make grants and enter into contracts to fulfill the obligations of subdivision 1. The commissioner may contract with, among others, agricultural commodity organizations and agriculture related businesses to fulfill the duties. The commissioner shall make permanent rules for the administration of these grants and contracts. The rules shall specify at a minimum:

- (a) eligibility criteria;
  - (b) application procedures;
  - (c) provisions for application review and project approval;
  - (d) provisions for program monitoring and review for all approved grants and contracts;
- and
- (e) other provisions the commissioner finds necessary.

Contracts entered into by the commissioner pursuant to this subdivision shall not exceed 75 percent of the cost of the project supported by the commissioner's grant. In any biennium, no organization shall receive more than \$70,000 in grants from the commissioner.

*[For text of subds 3 and 4, see M.S.1994]*

**History:** 1995 c 233 art 2 s 56

### **17.1015 PROMOTIONAL EXPENDITURES.**

In order to accomplish the purposes of section 17.101, the commissioner may participate jointly with private persons in appropriate programs and projects and may enter into contracts to carry out those programs and projects. The contracts may not include the acquisition of land or buildings and are not subject to the provisions of chapter 16B relating to competitive bidding.

The commissioner may spend money appropriated for the purposes of section 17.101, and expenditures made pursuant to section 17.101 for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

**History:** 1995 c 186 s 11

### **17.117 AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM.**

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Authority.** The commissioner shall establish, adopt rules for, and implement a program to make loans to local units of government, federal authorities, lending institutions, and other appropriate organizations who will in turn provide loans to landowners and businesses for facilities, fixtures, equipment, or other sustainable practices that prevent or mitigate sources of nonpoint source water pollution. The commissioner shall establish pilot projects to develop procedures for implementing the program. The commissioner shall develop administrative guidelines to implement the pilot projects specifying criteria, standards, and procedures for making loans.

*[For text of subd 3, see M.S.1994]*

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

(a) "Applicant" means a county or a local government unit designated by a county under subdivision 8, paragraph (a).

(b) "Authority" means the Minnesota public facilities authority as established in section 446A.03.

(c) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2.

(d) "Chair" means the chair of the board of water and soil resources or the designee of the chair.

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

(f) "Commissioner" means the commissioner of agriculture or the designee of the commissioner.

(g) "Comprehensive water management plan" means a state approved and locally adopted plan authorized under section 103B.231, 103B.255, 103B.311, 103C.331, 103D.401, or 103D.405.

(h) "Local allocation request" means a loan allocation request from an applicant to implement agriculturally related best management practices defined in paragraph (c).

(i) "Lender agreement" means a loan agreement entered into between the commissioner, a local lender, and the applicant, if different from the local lender. The agreement will contain terms and conditions of the loan that will include but need not be limited to general loan provisions, loan management requirements, application of payments, loan term limits, allowable expenses, and fee limitations.

(j) "Local government unit" means a county, soil and water conservation district, or an organization formed for the joint exercise of powers under section 471.59.

(k) "Local lender" means a local government unit as defined in paragraph (j), a state or federally chartered bank, a savings association, a state or federal credit union, a nonprofit economic development organization approved by the commissioner, or Farm Credit Services.

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

*[For text of subd 5, see M.S. 1994]*

**Subd. 6. Application.** (a) The commissioner must prescribe forms and establish an application process for applicants to apply for a local allocation request. The application must include but need not be limited to (1) the geographic area served; (2) the type and estimated cost of activities or projects for which they are seeking a loan allocation; (3) a ranking of proposed activities or projects; and (4) the designation of the local lender and lending practices the local lender intends to use to issue the loans to the borrowers, if a local lender other than the applicant is to be used.

(b) If a local allocation request is rejected, the applicant must be notified in writing as to the reasons for the rejection and given 30 days to submit a revised application. The revised application shall be reviewed according to the same procedure used to review the initial application.

**Subd. 7. Payments.** (a) Payments made from the water pollution control revolving fund must be made in accordance with applicable state and federal laws and rules governing the payments.

(b) Payments from the commissioner to the local lender must be disbursed on a cost-incurred basis. Local lenders shall submit payment requests at least quarterly but not more than monthly. Payment requests must be reviewed and approved by the commissioner. The payment request form must itemize all costs by major elements and show eligible and ineligible costs.

(c) The commissioner may initiate rescission of an allocation granted in a lender agreement as provided in subdivision 11, paragraph (d), if the local lender fails to enter into loans with borrowers equaling the total allocation granted within one year from the date of the lender agreement or fails to have the total amount of allocated funds drawn down through payment requests within two years. An additional year to draw down the undisbursed portion of an allocation may be granted by the commissioner under extenuating circumstances.

**Subd. 8. Applicant; borrowers.** (a) A county may submit a local allocation request. A county or a group of counties may designate another local government unit to submit a local allocation request.

(b) If a county does not submit a local allocation request, and does not designate another local government unit, a soil and water conservation district may submit a local allocation request. In all instances, there may be only one request from a county. The applicant must coordinate and submit requests on behalf of other units of government within the geographic jurisdiction of the applicant.

**Subd. 9. Review and ranking of allocation requests.** (a) The commissioner shall chair the subcommittee established in section 103F.761, subdivision 2, paragraph (b), for purposes of reviewing and ranking local allocation requests. The rankings must be in order of priority and shall provide financial assistance within the limits of the funds available. In carrying out the review and ranking, the subcommittee must consist of, at a minimum, the chair, representatives of the pollution control agency, United States Department of Agricultural Stabilization and Conservation Service, United States Department of Agriculture Soil Conservation Service, Association of Minnesota Counties, and other agencies or associations as the commissioner, the chair, and agency determine are appropriate. The review and ranking shall take into consideration other related state or federal programs.

(b) The subcommittee shall use the criteria listed below in carrying out the review and ranking:

- (1) whether the proposed activities are identified in a comprehensive water management plan as priorities;
- (2) whether the applicant intends to establish a revolving loan program under subdivision 10, paragraph (b);

(3) the potential that the proposed activities have for improving or protecting surface and groundwater quality;

(4) the extent that the proposed activities support areawide or multijurisdictional approaches to protecting water quality based on defined watershed;

(5) whether the activities are needed for compliance with existing water related laws or rules;

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

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

(8) whether there are off-site public benefits such as preventing downstream degradation and siltation; and

(9) the proposed interest rate.

**Subd. 9a. Authority of applicants.** Applicants may enter into a lender agreement designating a local lender. Applicants designating themselves as the local lender may enter into contracts for loan review, processing, and servicing.

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

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

(c) Local lenders may establish revolving loan programs to finance projects under this section.

(d) Local lenders, including applicants designating themselves as the local lender, may enter into participation agreements with other lenders. Local lenders may also enter into contracts with other lenders for the limited purposes of loan review, processing and servicing, or to enter into loan agreements with borrowers to finance projects under this section. Other lenders entering into contracts with local lenders under this section must meet the definition of local lender in subdivision 4, must comply with all provisions of the lender agreement and this section, and must guarantee repayment of the loan funds to the local lender. In no case may there be more than one local lender per county or more than one revolving fund per county.

**Subd. 11. Borrower eligibility; terms; repayment; recision.** (a) Local lenders shall use the following criteria in addition to other criteria they deem necessary in determining the eligibility of borrowers for loans:

(1) whether the activity is certified by a local unit of government as meeting priority needs identified in a comprehensive water management plan and is in compliance with accepted standards, specifications, or criteria;

(2) whether the activity is certified as eligible under Environmental Protection Agency or other applicable guidelines; and

(3) whether the repayment is assured from the borrower.

(b) Local lenders shall set the terms and conditions of loans to borrowers, except that no loan to an individual borrower may exceed \$50,000. In all instances, local lenders must provide for sufficient collateral or protection for the loan principal. They are responsible for collecting repayments by borrowers.

(c) The local lender is responsible for repaying the principal of a loan to the commissioner. The terms of repayment will be identified in the lender agreement. If defaults occur, it is the responsibility of the local lender to obtain repayment from the borrower. Default on the part of individual borrowers shall have no effect on the local lender's responsibility to repay its loan from the commissioner whether or not the local lender fully recovers defaulted amounts from individual borrowers. For revolving loan programs established under subdivision 10, paragraph (c), the lender agreement must provide that:

(1) repayment of principal to the commissioner must begin no later than ten years after the date of the lender agreement and must be repaid in full no later than 20 years after the date of the lender agreement;

(2) after the initial ten-year period, the local lender shall not write any additional loans, and any existing principal balance held by the local lender shall be immediately repaid to the commissioner;

(3) after the initial ten-year period, all principal received by the local lender from borrowers shall be repaid to the commissioner as it is received; and

(4) the applicant shall report to the commissioner annually regarding the past and intended uses of the money in the revolving loan program.

(d) Continued availability of the allocation granted in the lender agreement is contingent upon commissioner approval of the annual report. The commissioner shall review the annual report to ensure the past and future uses of the funds are consistent with the comprehensive water management plan and the lender agreement. If the commissioner concludes the past or intended uses of the money are not consistent with the comprehensive water management plan or the lender agreement, the commissioner shall rescind the allocation granted under the lender agreement. Such rescission shall result in termination of available allocation, the immediate repayment of any unencumbered funds held by the local lender in a revolving loan fund, and the repayment of the principal portion of loan repayments to the commissioner as they are received. The lender agreement shall reflect the commissioner's rights under this paragraph.

(e) A local lender shall receive certification from local government unit staff that a project has been satisfactorily completed prior to releasing the final loan disbursement.

*[For text of subs 12 and 13, see M.S.1994]*

**Subd. 14. Fees and interest.** (a) Origination fees charged directly to borrowers by local lenders upon executing a loan shall not exceed one-half of one percent of the loan amount. Interest assessed to loan repayments by the local lender must not exceed three percent.

(b) The local lender shall create a principal account to which the principal portions of individual borrower loan repayments will be credited.

(c) Any interest earned on outstanding loan balances not separated as repayments are received and before the principal amounts are deposited in the principal account shall be added to the principal portion of the loan to the local lender and must be paid to the commissioner when the principal is due under the lender agreement.

(d) Any interest earned on the principal account must be added to the principal portion of the loan to the local lender and must be paid to the commissioner when the principal is due under the lender agreement.

*[For text of subd 15, see M.S.1994]*

**Subd. 16. Liens against property.** (a) Unless a county determines otherwise, at the time of the disbursement of funds on a loan to a borrower under this section, the principal balance due plus accrued interest on the principal balance as provided by this section becomes a lien in favor of the county making the loan upon the real property on which the project is located. The lien must be first and prior to all other liens against the property, including state tax liens, whether filed before or after the placing of a lien under this subdivision, except liens for special assessments by the county under applicable special assessments laws, which liens shall be of equal rank with the lien created under this subdivision. A lien in favor of the county shall be first and prior as provided in this subdivision only if the county making the loan gives written notice of the intent to make the loan under this subdivision to all other persons having a recorded interest in the real property subject to the lien, no less than 30 days prior to the disbursement of the funds, and receives an agreement to subordinate superior lien positions held by all other lenders having a recorded interest in the real property subject to the lien. This lien and subordination agreement must be recorded against the real estate in the county recorder's office or filed with the registrar of titles for the county or counties in which the property is located. The county may bill amounts due on the loan on the tax statement for the property. Enforcement of the lien created by this subdivision shall, at the county's option, be in the manner set forth in chapter 580 or 581. When the amount due plus interest has been paid, the county shall file a satisfaction of the lien created under this subdivision.

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

may enforce the purchase money security interest in accordance with chapters 336, article 9, and 565.

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

**History:** 1995 c 202 art 1 s 25; 1995 c 220 s 28–39

#### **17.138 MANURE MANAGEMENT RESEARCH AND MONITORING PRIORITIES; COORDINATION OF RESEARCH.**

*[For text of subds 1 and 2, see M.S.1994]*

**Subd. 3. Best management practices.** The commissioner of the pollution control agency, in consultation with the commissioner and the feedlot and manure management advisory committee, shall develop voluntary best management practices for odor control at feedlots.

**History:** 1995 c 233 art 1 s 3

### **NATIVE GRASSES LOAN PROGRAM**

#### **17.231 NATIVE GRASSES AND WILDFLOWER SEED PRODUCTION INCENTIVE LOAN PROGRAM.**

(a) The commissioner shall prepare a plan to establish a seed production loan program to provide loans that enable people to begin or expand efforts to develop and produce new, local-origin, native grass, and native wildflower seed species.

(b) In the plan, the commissioner shall use the ecological regions identified by the commissioner of natural resources covering the entire state. In the plan, the commissioner shall design the loan program to produce at least ten local variety native grass species and 40 local variety native wildflower species for each region. In the plan, the commissioner shall look at the possibility of producing 100 acres of native grass seed production and ten acres of native wildflower seed production in each region.

**History:** 1995 c 220 s 40

#### **17.451 DEFINITIONS.**

*[For text of subd 1, see M.S.1994]*

**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, as pets, or as breeding stock; and

(2) registered in a manner approved by the board of animal health.

*[For text of subd 3, see M.S.1994]*

**History:** 1995 c 39 s 1

#### **17.452 FARM-RAISED CERVIDAE.**

*[For text of subds 1 to 9, see M.S.1994]*

**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. Perimeter fencing must be of the following heights:

- (1) for fences constructed before August 1, 1995, for farmed deer, at least 75 inches;
- (2) for fences constructed before August 1, 1995, for farmed elk, at least 90 inches; and
- (3) for fences constructed on or after August 1, 1995, for all farmed cervidae, at least 96 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.

*[For text of subd 11, see M.S.1994]*

**Subd. 12. Identification.** (a) Farmed cervidae must be identified by United States Department of Agriculture metal ear tags, electronic implants, or other means of identification approved by the board of animal health in consultation with the commissioner of natural resources. Newborn or imported animals are required to be identified by March 1 of each year. 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.

*[For text of subds 13 and 14, see M.S.1994]*

**History:** 1995 c 39 s 2,3

**17.83** [Repealed, 1995 c 233 art 2 s 57]

#### **17.84 DUTIES OF THE COMMISSIONER.**

Within 30 days of the receipt of the notice provided in section 17.82, the commissioner shall review the agency's proposed action, shall negotiate with the agency, and shall recommend to the agency in writing the implementation either of the action as proposed or an alternative. In making recommendations, the commissioner shall follow the statement of policy contained in section 17.80. If the agency receives no response from the commissioner within 30 days, it shall be deemed a recommendation that the agency take the action as proposed.

**History:** 1995 c 233 art 2 s 35

#### **17.86 URBAN FOREST PROMOTION AND DEVELOPMENT.**

*[For text of subds 1 and 2, see M.S.1994]*

**Subd. 3. Information.** The University of Minnesota extension service, in cooperation with the commissioners of agriculture, children, families, and learning, natural resources, and public service, shall serve as the principal agency for publishing and circulating information derived from research under subdivision 2 among the various municipalities and individual property owners in the state. Where practical, the extension service and department of public service shall secure the advice and assistance of various energy utilities interested and concerned with conservation. The commissioner of agriculture shall establish an information source for requests for nursery stock, to match needs of municipalities with stocks of trees available for planting from private and governmental sources.

*[For text of subd 4, see M.S.1994]*

**Subd. 5. School Arbor Day activities.** The commissioners of children, families, and learning, agriculture, and natural resources, with the state arbor month committee and its individual public and private members, shall jointly work to expand and strengthen programs available to all levels of schools in forestry education and shall encourage reinstitution of Arbor Day activities. Information on desirable shade tree varieties and efficient spacing and location of shade trees shall be made available for use in related adult education courses.

*[For text of subd 6, see M.S.1994]*

**History:** *1Sp1995 c 3 art 16 s 13*

## FARM CENTER

### 17.985 PASSING ON THE FARM CENTER.

**Subdivision 1. Purpose; objectives.** The Passing on the Farm Center is established as a part of Southwest Technical College in Granite Falls to assist individuals beginning farming and family farming operations. The center shall also assist in facilitating the transition of farming operations from established farmers to beginning farmers by creating and maintaining an information base inventorying land and facilities available for acquisition and bringing them together to increase the number of family farming operations in this state. The objectives of the center include, but are not limited to, the following:

(1) using the services of a certified public accountant, real estate agents, and attorneys to provide education in estate planning and farm transfer programs for interested retiring farmers;

(2) assessing needs of beginning farmers and retiring farmers in order to identify program and service opportunities including developing statewide apprenticeship programs between beginning and retiring farmers; and

(3) developing, coordinating, and delivering statewide through Southwest Technical College in Granite Falls and other entities, as appropriate, targeted education to beginning farmers and retiring farm families.

**Subd. 2. Programs and services.** Programs and services provided by the center must include, but are not limited to, the development of skills and knowledge in farm estate planning and other topics related to intergenerational farm transfer. The center shall develop and distribute a detailed questionnaire for interested retired farmers and landowners and beginning farmers for the purpose of connecting them with each other and to develop computerized lists. The center shall coordinate to the extent practicable with agricultural information centers.

**Subd. 3. Annual report.** The center shall submit a report annually to the legislature on or before February 1. The report shall include, but is not limited to, recommendations for methods by which more individuals may be encouraged to enter agriculture.

**History:** *1995 c 220 s 41*