

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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17.03 POWERS AND DUTIES OF COMMISSIONER.

[For text of subs 1 to 8, see M.S.1996]

Subd. 9. Farm crisis assistance fees; liability. (a) The department may charge a fee for farm crisis assistance services it provides to persons outside of the department.

(b) The state is not liable for the actions of persons under contract with the department who provide farm crisis assistance services as part of their contractual duties. Persons who provide farm crisis assistance are not subject to liability for their actions that are within the scope of their contract. The immunity from liability in this subdivision is in addition to and not a limitation of immunity otherwise accorded to the state and its contractors under law.

(c) Fees collected by the department under this subdivision must be deposited in the general fund.

(d) Persons under contract with the department to provide farm crisis assistance are not employees of the state.

Subd. 10. Gifts; publication fees; advertising; appropriation. (a) The commissioner may accept for and on behalf of the state any gift, bequest, devise, grant, or interest in money or personal property of any kind tendered to the state for any purpose pertaining to the activities of the department of agriculture or any of its divisions.

(b) The commissioner may charge a fee for reports, publications, or other promotional or informational material produced by the department of agriculture. The commissioner may solicit and accept advertising revenue for any departmental publications or promotional materials.

(c) The fees collected by the commissioner under this section are to recover all or part of the costs of providing services for which the fees are paid.

(d) Money received by the commissioner for these activities may be credited to one or more special accounts in the state treasury. Money in those special accounts is annually appropriated to the commissioner to provide the services for which the money was received.

[For text of subd 11, see M.S.1996]

Subd. 12. Contracts; appropriation. The commissioner may accept money as part of a contract with any public or private entity to provide statutorily prescribed services by the department. A contract must specify the services to be provided by the department and the amount and method of reimbursement. Money generated in a contractual agreement under this section must be deposited in a special revenue fund and is appropriated to the department for purposes of providing services specified in the contracts. Contracts under this section must be processed in accordance with section 16B.06. The commissioner must report revenues collected and expenditures made under this section to the chairs of the environment and natural resources finance committee in the house of representatives and the environment and agriculture budget division in the senate by January 15 of each odd-numbered year.

History: 1997 c 27 s 1; 1997 c 187 art 2 s 1; 1997 c 216 s 18

17.101 PROMOTIONAL ACTIVITIES.

Subdivision 1. **Departmental duties.** For the purposes of expanding, improving, and developing production and marketing of products of Minnesota agriculture, the commissioner shall encourage and promote the production and marketing of these products by means of:

- (a) advertising Minnesota agricultural products;
- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;
- (f) assessing and developing national and international markets for Minnesota agricultural products;
- (g) studying the conversion of raw agricultural products to manufactured products including ethanol;
- (h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
- (i) assisting Minnesota agricultural businesses desiring to sell their products;
- (j) conducting research to eliminate or reduce specific production or technological barriers to market development and trade; and
- (k) other activities the commissioner deems appropriate to promote Minnesota agricultural products, provided that the activities do not duplicate programs or services provided by the Minnesota trade division or the Minnesota world trade center corporation.

Subd. 2. **Agricultural development grants and contracts.** 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 enter into partnerships or seek gifts to carry out subdivision 1. The commissioner may contract with, among others, agricultural commodity organizations, the University of Minnesota, 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.

Subd. 3. **Audits.** The books, records, documents, and accounting procedures and practices of any organization receiving a grant or contract from the commissioner under the provisions of subdivision 2 shall be subject to examination by the department. The commissioner may prescribe uniform methods of accounting to be used by grant or contract recipients.

Subd. 4. **Advisory group.** The commissioner may establish an ad hoc advisory group to assist in evaluating grant requests made under subdivision 2.

Subd. 5. **Value-added agricultural livestock processing and marketing grant program.** (a) For purposes of this section, "livestock or dairy processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and used or operated primarily for the processing or production of marketable products from agricultural livestock or dairy commodities produced.

(b) The commissioner shall establish and implement a value-added agricultural livestock and dairy processing and marketing grant program to help farmers finance new cooperatives that organize for the purposes of operating livestock and dairy processing facilities and for marketing activities related to the sale and distribution of processed livestock and dairy products.

(c) To be eligible for this program a grantee must:

- (1) be a cooperative organized under chapter 308A;
- (2) certify that all of the control and equity in the cooperative is from farmers as defined in section 500.24, subdivision 2, who are actively engaged in livestock or dairy production;
- (3) be operated primarily for the processing of livestock or dairy produced in Minnesota;
- (4) receive livestock or dairy produced primarily by shareholders or members of the cooperative; and
- (5) have no direct or indirect involvement in the production of livestock and dairy.

(d) The commissioner may receive applications from and make grants up to \$50,000 for feasibility, marketing analysis, and predesign of facilities to eligible cooperatives. The commissioner shall give priority to applicants who use the grants for planning costs related to an application for financial assistance from the United States Department of Agriculture, Rural Business – Cooperative Service.

History: 1997 c 216 s 19

17.110 BEAVER DAMAGE CONTROL GRANTS.

Subdivision 1. **Establishment.** The commissioner of agriculture shall establish a beaver damage control grant program to provide grants for the control of beaver activities causing damage to public waters, roads, and ditches and adjacent private property. The grants may only be made to a joint powers board established under section 471.59 by two or more governmental units and may include Indian tribal governments.

Subd. 2. **Grant amount.** The commissioner may provide up to 50 percent of the costs of implementing a beaver damage control program by a joint powers board.

Subd. 3. **Awarding of grants.** Applications for grants must be made to the commissioner on forms prescribed by the commissioner. The commissioner shall consult with town supervisors and county commissioners representing different areas of the state in developing the application form. A joint powers board seeking a grant may be required to supply information on the beaver control program it has adopted, the extent of the problem in the geographic area covered by the joint powers agreement, and the ability of the joint powers board to match the state grant. The commissioner may prioritize the grant applications based upon the information requested as part of the grant application.

Subd. 4. **Report.** (a) Within one year after receiving a grant under this section, a joint powers board must report to the commissioner on the board's efforts to control beaver in the area.

(b) The commissioner shall report to the senate and house environment and natural resources committees on the efforts under this section to control beaver by December 15 of each even-numbered year.

History: 1997 c 216 s 20

17.116 SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.

[For text of subd 1, see M.S.1996]

Subd. 2. **Eligibility.** (a) Grants may only be made to farmers, educational institutions, individuals at educational institutions, or nonprofit organizations residing or located in the state for demonstrations on farms in the state.

(b) Grants may only be made for projects that show:

- (1) the ability to maximize direct or indirect energy savings or production;
- (2) a positive effect or reduced adverse effect on the environment; and

(3) profitability for the individual farm.

Subd. 3. **Awarding of grants.** (a) Applications for grants must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a technical review panel appointed by the commissioner. The technical review panel shall consist of a soil scientist, an agronomist, a representative from a post-secondary educational institution, two resident farmers of the state using sustainable agriculture methods, and a chair from the department.

(c) The technical review panel shall rank applications according to the following criteria:

- (1) direct or indirect energy savings or production;
- (2) environmental benefit;
- (3) farm profitability;
- (4) the number of farms able to apply the techniques or the technology proposed;
- (5) the effectiveness of the project as a demonstration;
- (6) the immediate transferability of the project to farms; and
- (7) the ability of the project to accomplish its goals.

(d) The commissioner shall consider the recommendations of the technical review panel and may award grants for eligible projects. Priority must be given to applicants who are farmers or groups of farmers.

(e) Grants for eligible projects may not exceed \$25,000 unless the portion above \$25,000 is matched on an equal basis by the applicant's cash or in-kind land use contribution. Grant funding of projects may not exceed \$50,000 under this section, but applicants may utilize other funding sources. A portion of each grant must be targeted for public information activities of the project.

(f) A project may continue for up to three years. Multiyear projects must be reevaluated by the technical review panel and the commissioner before second or third year funding is approved. A project is limited to one grant for its funding.

History: 1997 c 216 s 21,22

17.136 ANIMAL FEEDLOTS; POLLUTION CONTROL; FEEDLOT AND MANURE MANAGEMENT ADVISORY COMMITTEE.

(a) The commissioner of agriculture and the commissioner of the pollution control agency shall establish a feedlot and manure management advisory committee to identify needs, goals, and suggest policies for research, monitoring, and regulatory activities regarding feedlot and manure management. In establishing the committee, the commissioner shall give first consideration to members of the existing feedlot advisory group.

(b) The committee must include representation from beef, dairy, pork, chicken, and turkey producer organizations. The committee shall not exceed 18 members, but, after June 30, 1997, must include representatives from at least four environmental organizations, eight livestock producers, and four experts in soil and water science, nutrient management, and animal husbandry, one member from an organization representing local units of government, and chairs of the senate and the house of representatives committees that deal with agricultural policy or the designees of the chairs. In addition, the departments of agriculture, health, and natural resources, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Natural Resource Conservation Service, the association of Minnesota counties, and the Farm Service Agency shall serve on the committee as ex officio nonvoting members.

(c) The advisory committee shall elect a chair and a vice-chair from its members. The department and the agency shall provide staff support to the committee.

(d) The commissioner of agriculture and the commissioner of the pollution control agency shall consult with the advisory committee during the development of any policies, rules, or funding proposals or recommendations relating to feedlots or feedlot-related manure management.

(e) The commissioner of agriculture shall consult with the advisory committee on establishing a list of manure management research needs and priorities.

(f) The advisory committee shall advise the commissioners on other appropriate matters.

(g) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, 2001.

History: 1997 c 192 s 11

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

[For text of subd 1, see M.S.1996]

Subd. 2. **Coordination of research.** The commissioner shall coordinate manure management research and monitoring and make recommendations on manure management research and monitoring funding priorities to funding bodies other than the legislature.

[For text of subd 3, see M.S.1996]

History: 1997 c 7 art 2 s 6

17.452 FARM-RAISED CERVIDAE.

[For text of subds 1 and 2, see M.S.1996]

Subd. 3. [Repealed, 1997 c 7 art 2 s 67]

[For text of subds 4 to 14, see M.S.1996]

17.456 LLAMA.

[For text of subds 1 to 3, see M.S.1996]

Subd. 4. [Repealed, 1997 c 220 s 5]

[For text of subd 5, see M.S.1996]

AGROFORESTRY

17.458 AGROFORESTRY.

Subdivision 1. **Definition.** "Agroforestry" means the cultivation of short-rotation woody crops using agricultural practices to produce timber or forest products.

Subd. 2. **Agricultural pursuit.** Agroforestry is an agricultural pursuit.

History: 1997 c 216 s 23

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. The advisory committee expires on June 30, 2001.

[For text of subds 2 to 3, see M.S.1996]

History: 1997 c 192 s 12

17.4982 DEFINITIONS.

[For text of subds 1 to 18, see M.S.1996]

Subd. 18a. **Nonindigenous species.** "Nonindigenous species" means a species of fish or other aquatic life that is:

- (1) not known to have been historically present in the state;
- (2) not known to be naturally occurring in a particular part of the state; or
- (3) designated by rule as a prohibited or restricted exotic species.

Subd. 18b. **Nonindigenous strain.** "Nonindigenous strain" means a species of fish or other aquatic life that:

- (1) has an original source outside of this state and contiguous states;
- (2) is an unnaturally occurring hybrid or genetically engineered species; or
- (3) in areas north of marked state highway 210, is a walleye, the original source of which is from south of marked state highway 210 or from outside the state.

Subd. 18c. **Processing.** "Processing" means rendering a species of aquatic life for food, bait, or other purposes so that it is no longer alive.

[For text of subs 19 to 22, see M.S.1996]

History: 1997 c 226 s 1-3

17.4983 AQUATIC FARM OPERATIONS.

[For text of subs 1 to 7, see M.S.1996]

Subd. 8. **Interference prohibited.** A person may not knowingly damage, disturb, or interfere with legal aquatic farm operations.

History: 1997 c 226 s 4

17.4988 LICENSE AND INSPECTION FEES.

Subdivision 1. **Requirements for issuance.** A permit or license must be issued by the commissioner if the requirements of law are met and the license and permit fees specified in this section are paid.

Subd. 2. **Aquatic farming license.** (a) The annual fee for an aquatic farming license is \$275.

(b) The aquatic farming license may contain endorsements for the rights and privileges of the following licenses under the game and fish laws. The endorsement must be made upon payment of the license fee prescribed in section 97A.475 for the following licenses:

- (1) minnow dealer license;
- (2) minnow retailer license for sale of minnows as bait;
- (3) minnow exporting license;
- (4) aquatic farm vehicle endorsement, which includes a minnow dealer vehicle license, a minnow retailer vehicle license, an exporting minnow vehicle license, and a fish vendor license;
- (5) sucker egg taking license; and
- (6) game fish packers license.

Subd. 3. **Inspection fees.** The fees for the following inspections are:

- (1) initial inspection of each water to be licensed, \$50;
- (2) fish health inspection and certification, \$20 plus \$100 per lot thereafter; and
- (3) initial inspection for containment and quarantine facility inspections, \$50.

Subd. 4. **Aquarium facility.** (a) A person operating a commercial aquarium facility must have a commercial aquarium facility license issued by the commissioner if the facility contains species of aquatic life that are for sale and that are present in waters of the state. The commissioner may require an aquarium facility license for aquarium facilities importing or holding species of aquatic life that are for sale and that are not present in Minnesota if those species can survive in waters of the state. The fee for an aquarium facility license is \$19.

(b) Game fish transferred by an aquarium facility must be accompanied by a receipt containing the information required on a shipping document by section 17.4985, subdivision 3, paragraph (b).

History: 1997 c 216 s 24

NOTE: The amendment to this section by Laws 1997, chapter 216, section 24, is effective March 1, 1998. Laws 1997, chapter 216, section 161.

17.4998 VIOLATIONS; PENALTY.

Subdivision 1. **Misdemeanor.** 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.

Subd. 2. **Petty misdemeanor.** A first and second violation, within a three-year period, 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 petty misdemeanor if it does not involve intentionally falsifying records and does not put public waters or other fish hatchery facilities at risk from harmful nonindigenous species, nonindigenous strains, or emergency fish diseases.

Subd. 3. **License void.** The license of a person convicted of a violation 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 void for a period of one year after the conviction if the person is convicted of two or more misdemeanors within a three-year period. If the commissioner determines that the public welfare will not be injured, the commissioner may reinstate a license voided under this subdivision.

History: 1997 c 226 s 5

17.54 COUNCILS.

[For text of subs 1 to 3, see M.S.1996]

Subd. 4. **Election.** Upon receipt of the nominations the commissioner shall promptly arrange an election to be held at places designated by the commissioner reasonably convenient to all producers in the organized area and provide notice of the election to all of the media having a general circulation in the organized area. Ballots setting forth the names of the nominated candidates and providing for write-in candidates shall be made available at all polling places. Only producers of the agricultural commodity involved shall be qualified to vote. General polling procedures shall be established by the commissioner by rule pursuant to chapter 14 to avoid voting by other than qualified producers. An impartial committee appointed by the commissioner shall tabulate the votes, and the candidates receiving the most votes shall be declared elected to the first council.

After the first council for a commodity is elected, an election shall be held annually to elect members of the council. The election shall be held in the same manner as prescribed for the first council election except that the manner of choosing nominating committee members, the time of nominations and the time and place of elections shall be fixed by the commissioner. Mail balloting may be permitted by the commissioner.

[For text of subs 5 to 13, see M.S.1996]

History: 1997 c 187 art 3 s 4

17.56 COUNCIL TO FORMULATE AND SUBMIT PROMOTIONAL ORDER.

[For text of subd 1, see M.S.1996]

Subd. 2. **Hearings.** The commissioner, after consultation with the council, shall hold public hearings on the proposed promotional order in areas and at times affording reasonable opportunities for producers to attend. After such hearings and after consultation with the council, the commissioner shall determine whether or not the promotional order shall be amended, modified or supplemented. If changes or additions of substance are made, commissioner shall hold public hearings on the amended or supplemented promotional order.

[For text of subs 3 to 5, see M.S.1996]

History: 1997 c 187 art 3 s 5

17.57 ADDITIONAL POWERS AND DUTIES OF COUNCIL.

Subdivision 1. **Adoption of rules.** Each council shall at its regular meetings adopt rules consistent with sections 17.51 to 17.69 for the administration of the promotional order.

[For text of subs 2 to 7, see M.S.1996]

History: 1997 c 187 art 3 s 6

17.64 TERMINATION OF THE ORDER.

[For text of subd 1, see M.S.1996]

Subd. 2. **By referendum.** Upon petition of the same number of producers as required to initiate the promotional order, the commissioner shall within 60 days conduct a referendum to determine whether or not the promotional order shall be continued. The commissioner shall terminate the order at the end of the current marketing year if a majority of the producers voting in the referendum vote in favor of termination. The petition of producers shall include a statement certifying that the signatures are those of qualified producers of the commodity involved. The commissioner shall not conduct a referendum for termination of a promotional order if a referendum for termination of the same promotional order has been conducted within the preceding year.

History: 1997 c 187 art 3 s 7

17.76 MINNESOTA DAIRY PRODUCERS BOARD.

Subdivision 1. **Establishment; composition; officers.** (a) The Minnesota dairy producers board consists of 18 members. Fourteen of the members must be eligible family dairy producers. Four of the members must represent food consumer groups. For purposes of this section, "eligible family dairy producer" means a natural person who daily manages and operates a dairy farm owned by the person. "Eligible family dairy producer" does not include a person who is currently an employee of or a member of the board of directors of an organization involved in milk processing or dairy marketing.

(b) The board shall elect from among its members a chair and other appropriate officers.

Subd. 2. **Appointment; terms; compensation.** (a) Two members of the board shall be appointed by each of seven organizations representing agriculture in Minnesota. The organizations are:

Minnesota Farmers Union;
National Farmers Organization;
Farmers Union Milk Marketing Cooperative;
Minnesota Milk Producers;
Sustainable Farming Association of Minnesota;
Minnesota Farm Bureau; and
Minnesota COACT.

Two members of the board shall be appointed by each of two organizations representing consumers in Minnesota. The organizations are:

Minnesota Food Association; and
Minnesota Senior Federation.

To the extent practicable, the members must be selected to represent the broad diversity of Minnesota's dairy producers.

(b) The terms and compensation of members and reimbursement for their expenses is governed by section 15.059.

(c) The board expires on June 30, 2001.

Subd. 3. Duties. (a) The board may monitor economic aspects of the dairy production, processing, and marketing process including:

- (1) the movement of milk by processors;
- (2) price setting at the National Cheese Exchange in Chicago;
- (3) processor pricing methods;
- (4) producer checkoffs and the use of checkoff funds;
- (5) federal and state pricing policy; and
- (6) other activities that affect the farm gate price of raw milk.

(b) The board may regularly educate producers, processors, consumers, and policy-makers about the reasons for inadequate raw milk prices.

(c) The board may conduct quarterly surveys of dairy producers to identify problems created by milk prices that do not provide a fair return on the investment of producers. The board may compile the information from these surveys and recommend solutions to producers.

(d) The board may determine dairy production costs in each county through periodic surveys and from local organizations of producers.

History: 1997 c 216 s 25

MERCURY MANOMETERS

17.861 REPLACEMENT OF MERCURY MANOMETERS.

The commissioner, in cooperation with the pollution control agency, the office of environmental assistance, dairy equipment manufacturers and suppliers, and other interested parties, shall develop a program to provide replacement nonmercury manometers for a \$50 fee and to arrange for the acceptance, disposal, and recycling of the mercury, apparatus, and manometers at no cost to the dairy farmer. The mercury, manometers, and apparatus shall be managed in accordance with sections 115A.932 and 116.92.

History: 1997 c 216 s 26

17.986 ENTRY INTO FARM ANIMAL FACILITIES.

No law enforcement, peace, or animal control officer may enter a facility where confined farm animals are kept unless the officer follows a procedure and directive for biosecurity measures that are identified by the commissioner of natural resources and the board of animal health.

This section does not apply to emergency or exigent circumstances.

History: 1997 c 55 s 1