

Agriculture

CHAPTER 17

DEPARTMENT OF AGRICULTURE

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DEPARTMENT ADMINISTRATION

17.01 CREATION OF DEPARTMENT; COMMISSIONER; DEPUTY.

There is created a department of agriculture, which shall be in the charge of a commissioner of agriculture, in this chapter called the commissioner, who shall be appointed by the governor under the provisions of section 15.06. Before entering upon the duties of office, the commissioner shall take the oath required of state officials. The commissioner may appoint a deputy commissioner.

**History:** (6023, 53-27 1/2) 1919 c 444 s 1; 1921 c 78 s 1; 1923 c 261 s 1; 1929 c 387; 1951 c 713 s 4; 1961 c 113 s 1; 1961 c 128 s 1; 1969 c 1129 art 8 s 2; 1977 c 305 s 12; 1986 c 444

17.013 DELEGATIONS OF POWERS TO DEPUTY COMMISSIONER.

The commissioner of agriculture may designate the deputy commissioner of agriculture to act in the commissioner's stead as a member, with all the commissioner's rights and privileges therein, of any board, committee or commission that the commissioner is made a member of by law. The designation shall be filed with secretary of state.

**History:** 1957 c 267 s 1; 1961 c 113 s 1; 1986 c 444

17.02 [Repealed, 1961 c 128 s 20]

17.03 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Development of agricultural industries.** The commissioner shall encourage and promote the development of agricultural industries, investigate marketing conditions affecting the marketing of farm products, and assist farmers, producers, and consumers in the organization and management of cooperative enterprises and the cooperative marketing of farm products; advise and assist in the location and establishment of local markets when the commissioner determines that the public necessity or

the welfare of the community requires such markets, if satisfied that such markets will be successfully operated by a cooperative company or municipality. It shall be the duty of the department of agriculture and the department of agriculture of the University of Minnesota to cooperate in all ways that may be beneficial to the agricultural interests of the state. It is intended that police and organizational powers in reference to agriculture shall be exercised by the state department of agriculture and that the department of agriculture of the University of Minnesota shall retain its present powers and duties relating to obtaining and disseminating agricultural information and conducting agricultural research, and shall retain custody of scientific collections.

**Subd. 2. Statistics and information.** The commissioner may collect, compile, and supply statistics and information in regard to the agricultural products of the state and agricultural industries and, to attain this result, may cause a farm census at least once in two years, and may do so annually if deemed advisable.

**Subd. 3. Cooperation with federal agencies.** The commissioner shall cooperate with the government of the United States, with financial agencies created to assist in the development of the agricultural resources of this state, and so far as practicable may use the facilities provided by the existing state departments and the various state and local organizations. This subdivision is intended to relate to every function and duty which devolves upon the commissioner.

**Subd. 4. Publication of information.** The commissioner is authorized to publish, from time to time, such marketing or other information as may be deemed necessary to the welfare of agriculture, and to that end may investigate marketing or other conditions relating to agriculture in this and in other states, and to make these investigations public in such manner as shall in the commissioner's judgment be most effective.

**Subd. 5.** [Repealed, 1987 c 312 art 1 s 25; 1987 c 396 art 10 s 7]

**Subd. 6. Cooperation with Minnesota trade division.** The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade division shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade division have primary responsibility for promoting state agricultural interests to international markets. The commissioner of trade and economic development and the director of the Minnesota trade division are also responsible for the promotion of national trade programs related to international marketing. The commissioner of agriculture has primary responsibility for promoting the agriculture interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture. The commissioner of agriculture is also responsible for promoting the national marketing of state agricultural products.

**Subd. 7. Agricultural diversification.** The commissioner shall establish a program of agricultural diversification. The commissioner must assist the horticultural industry, help producers diversify farming operations, and coordinate state agency efforts regarding agricultural diversification, after consulting with farm groups, the University of Minnesota, and applicable institutions of higher learning. The commissioner shall report to the governor and legislature annually on activities and actions that should be taken in these matters.

**Subd. 7a. Nontraditional agriculture; promotion.** (a) The commissioner shall devise means of advancing the production and marketing of nontraditional agricultural products of the state. The commissioner shall also seek the cooperation and involvement of every department or agency of the state, and such public and nonpublic organizations as the commissioner deems appropriate, for the promotion of nontraditional agricultural products.

(b) The production and marketing of nontraditional agricultural products are considered agricultural pursuits.

(c) Except as otherwise provided in law, the commissioner may adopt appropriate rules concerning health standards for nontraditional agriculture.

(d) Except as otherwise provided in law, the slaughter of all meat producing animals, fowl, or fish that are nontraditional agriculture intended for sale in commercial outlets must occur at an inspected slaughterhouse.

(e) Except as otherwise provided in law, it is the responsibility of an owner to take all reasonable actions to maintain the nontraditional agriculture on property owned or leased by the owner, including the construction of fences, enclosures, or other barriers, and housing of a suitable design.

(f) For purposes of this subdivision, "nontraditional agriculture" and "nontraditional agricultural products" includes but is not limited to aquaculture as defined in section 17.47, subdivision 2, and the production of animals domesticated from wild stock, either native or nonnative, that are kept in confinement by the owner.

**Subd. 8. Cooperation with Minnesota trade office.** The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade office shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office have primary responsibility for promoting state agricultural interests to international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states and the United States Department of Agriculture.

**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.

**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) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

**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 16C.05. 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.

**Subd. 13. Semiannual reports.** (a) By October 15 and April 15 of each year, the commissioner shall submit to the legislative committees having jurisdiction over appropriations from the agricultural fund in section 16A.531 a report on the amount of revenue raised in each fee account within the fund, the expenditures from each account, and the purposes for which the expenditures were made.

(b) The report delivered on October 15 of each year must include the commissioner's recommendations, if any, for changes in statutes relating to the fee accounts of the agricultural fund.

**History:** (6024,6027) 1919 c 444 s 2,6; 1921 c 78 s 2,5; 1923 c 261 s 2,5; 1945 c 27 s 1; 1961 c 113 s 1; 1975 c 319 s 1; 1975 c 339 s 1; 1984 c 654 art 2 s 66; 1986 c 444; 1987 c 312 art 1 s 11; 1987 c 396 art 8 s 1; art 10 s 1; 1992 c 513 art 2 s 12,13; 1994 c 642 s 1; 1995 c 248 art 11 s 3; 1996 c 305 art 3 s 2; 1997 c 27 s 1; 1997 c 187 art 2 s 1; 1997 c 216 s 18; 1998 c 366 s 47; 1998 c 386 art 2 s 16; 1999 c 231 s 22

**17.031** [Repealed, 1983 c 300 s 28]

**17.032** [Repealed, 1983 c 300 s 28]

## EXEMPTION OF LICENSEES FROM LOCAL REGULATION

### 17.037 ENFORCEMENT OF LAWS BY COMMISSIONER.

**Subdivision 1. Actions commenced; forfeiture of license; annulment of corporate existence.** The commissioner is authorized, if upon investigation the commissioner is satisfied that the laws of the state, relative to any laws placed within the commissioner's jurisdiction, have been violated, to cause to be instituted, in the commissioner's own name as commissioner or in the name of the state, actions in the proper court, to secure punishment of the guilty party; and, if the party complained against is a corporation, to secure the cancellation of its authority and the annulment of its corporate existence, if a domestic corporation; or, if a foreign corporation, the forfeiture of its license to do business in this state.

**Subd. 2. Reports to prosecuting officers.** If, after an investigation, it appears to the commissioner that the laws of this state have been violated in any respect, the

commissioner shall present all available information bearing upon such apparent violation to the proper law enforcing or prosecuting officer of the state or of the United States.

**Subd. 3. Food manufacturer, processor, or distributor; licensing, preemption by state.** When a food manufacturer, processor, or distributor is licensed by the commissioner of agriculture, the food manufacturer, processor or distributor is exempt from the licensing requirements of any municipal corporation or subdivision of state government, except for licensing requirements which may be imposed by the municipal corporation or subdivision of state government in which the manufacturer, processor, or distributor locates a plant. All delivery equipment used by such a food manufacturer, processor or distributor is included within the meaning of this section, whether owned or operated, independently contracted, or contracted with a common carrier approved by the commissioner of agriculture. This delivery equipment is exempt from licensing by any municipal corporation or subdivision of state government except for those requirements which may be imposed by the municipal corporation or subdivision of state government in which the equipment is principally located. Delivery equipment approved by the commissioner of agriculture shall carry, at all times, a certificate of approval for the purposes for which the equipment is utilized. Nothing in this section is intended to permit the enactment of an ordinance regulating an activity where the state has preempted the field.

**History:** (6025,6244) 1919 c 444 s 3; Ex1919 c 47 s 4; 1921 c 78 s 3; 1923 c 261 s 3; 1967 c 756 s 1; 1986 c 444

#### **17.038 STATISTICAL SERVICES ACCOUNT.**

The statistical services account is established in the agricultural fund. All payments for statistical services performed by the agricultural statistics division of the department of agriculture must be deposited in the agricultural fund and credited to the statistical services account. The money in the account is appropriated to the commissioner of agriculture to administer the programs of the agricultural statistics division.

**History:** 1Sp1985 c 10 s 42; 1999 c 231 s 23

#### **17.039 ETHICAL GUIDELINES FOR FARM ADVOCATES.**

Ethical guidelines developed by the commissioner must be part of the contract with each farm advocate.

**History:** 1986 c 398 art 22 s 1; 1Sp2001 c 2 s 18

#### **17.04 ENFORCEMENT OF FOOD LAWS.**

The commissioner shall cause to be enforced all the provisions of all laws designed to prevent fraud and deception in the manufacture and sale of food and the several ingredients thereof, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food products.

**History:** (3793) 1921 c 495 s 6; 1961 c 128 s 2

**17.042** [Repealed, 1Sp2001 c 2 s 162]

#### **17.045 FOOD PROCESSORS; INVESTIGATION OF COMPLAINTS.**

The commissioner of the department of agriculture, with the cooperation and assistance of the attorney general, may investigate any complaint which suggests that an establishment licensed by the state and engaging in the production, processing or handling of meat, fish, poultry, dairy or other food products has been subjected to food handling requirements which are inconsistent with the published laws, rules or standards of a federal, state or local agency. The findings of any such investigation shall be promptly reported to the complainant, to any trade association with whom the complainant is associated or which has requested a copy of the report of findings, and to any agency or official against which the complaint is directed or which has jurisdiction over the matter complained of. Provided, however, that the provisions of

this section shall not apply to an official establishment which is operating under inspection programs pursuant to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act.

**History:** 1973 c 745 s 1; 1985 c 248 s 70

**17.05** [Repealed, 1955 c 92 s 3]

**17.06** [Repealed, 1Sp2001 c 2 s 162]

**17.07** [Repealed, 1Sp2001 c 2 s 162]

**17.08** [Repealed, 1961 c 128 s 20]

**17.09** [Renumbered 17.03, subd 4]

#### **17.10 BIENNIAL REPORTS.**

The commissioner shall, biennially, on or before November 15 in each even-numbered year, submit to the governor and the legislature a report of the department, with such recommendations and suggestions as the interests of agriculture and foods and marketing conditions require, and shall report, on or before November 15 of each even-numbered year, concerning official acts, showing official receipts and disbursements, and may issue public bulletins of information from time to time.

**History:** (6028) 1919 c 444 s 8; 1921 c 78 s 7; 1923 c 261 s 6; 1974 c 406 s 58; 1986 c 444

#### **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.

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 product processing and marketing grant program.** (a) For purposes of this section:

(1) "agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, dairy, dairy products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use, except ethanol; and

(2) "agricultural product 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 commodities produced in Minnesota.

(b) The commissioner shall establish and implement a value-added agricultural product processing and marketing grant program to help farmers finance new cooperatives that organize for the purposes of operating agricultural product processing facilities, forming marketing cooperatives, and marketing activities related to the sale and distribution of processed agricultural 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, family farm partnerships, family farm limited liability companies, or family farm corporations as defined in section 500.24, subdivision 2, who are actively engaged in agricultural commodity production;

(3) be operated primarily for the processing of agricultural commodities produced in Minnesota;

(4) receive agricultural commodities produced primarily by shareholders or members of the cooperative; and

(5) have no direct or indirect involvement in the production of agricultural commodities.

(d) The commissioner may receive applications from and make grants up to \$50,000 for feasibility, marketing analysis, assistance with organizational development, financing and managing new cooperatives, product development, development of business and marketing plans, and predesign of facilities including site analysis, development of bid specifications, preliminary blueprints and schematics, and completion of purchase agreements and other necessary legal documents 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.

Subd. 6. **Livestock development.** The commissioner shall establish a process, including criteria and standards, to recognize and assist efforts by counties to maintain or expand their livestock sector.

A county that meets the criteria may apply to the commissioner to be designated a "livestock friendly" county.

**History:** 1963 c 486 s 1; 1983 c 293 s 29; 1984 c 640 s 32; 1986 c 444; 1987 c 312 art 1 s 12; 1987 c 396 art 10 s 2; 1995 c 233 art 2 s 56; 1997 c 216 s 19; 1998 c 401 s 14; 2000 c 260 s 9; 2000 c 477 s 1; 1Sp2001 c 2 s 19; 2002 c 373 s 1

#### 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 16C 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:** 1983 c 300 s 1; 1995 c 186 s 11; 1998 c 386 art 2 s 17

#### 17.102 MINNESOTA GROWN LABEL.

Subdivision 1. **Establishment and use of label.** (a) The commissioner shall establish a "Minnesota grown" logo or labeling statement for use in identifying agricultural products that are grown, processed, or manufactured in this state. The commissioner may develop labeling statements that apply to specific marketing or promotional needs. One version of a labeling statement must identify food products certified as organically grown in this state. The Minnesota grown logo or labeling statement may be used on raw agricultural products only if 80 percent or more of the agricultural product is produced in this state.

(b) The Minnesota grown logo or labeling statement may not be used without a license from the commissioner except that wholesalers and retailers may use the Minnesota grown logo and labeling statement for displaying and advertising products that qualify for use of the Minnesota grown logo or labeling statement.

Subd. 2. **Label does not replace other requirements.** The logo or labeling statement does not supersede or replace any federal label or grade standard that is required by law.

Subd. 3. **License.** A person may not use the Minnesota grown logo or labeling without an annual license from the commissioner. The commissioner shall issue licenses for a fee of \$5.

Subd. 4. **Minnesota grown account.** The Minnesota grown account is established as an account in the agricultural fund. License fee receipts and penalties collected under this section must be deposited in the agricultural fund and credited to the Minnesota grown account. The money in the account is continuously appropriated to the commissioner to implement and enforce this section and to promote the Minnesota grown logo and labeling.

Subd. 5. **Penalty.** A person who is required to have a license and uses the Minnesota grown logo or labeling without a license after being notified by the commissioner that a license is required is subject to a civil penalty up to \$1,000.

Subd. 6. **Rules.** The commissioner shall promulgate rules authorizing and licensing the use of the logo or labeling statement.

**History:** 1979 c 36 s 1; 1987 c 396 art 6 s 1; 1988 c 688 art 4 s 1; 1999 c 231 s 24; 1Sp2001 c 2 s 20

**17.1025 MINNESOTA CERTIFICATION PROGRAM.**

Subdivision 1. **Establishment.** In cooperation with the University of Minnesota, the department of trade and economic development, and the board of animal health, the commissioner shall establish a program to certify agricultural production methods and agricultural products grown or processed within the state to assure the integrity of claims made by participating businesses. The commissioner may select and cooperate with private organizations that have established procedures and safeguards to justify claimed characteristics of the production process or the final certified product to conduct certification activities for third party producers.

Subd. 2. **Certification process.** The commissioner may establish guidelines for the certification program, which are not subject to chapter 14. Applications for certification must be submitted to the commissioner and must be evaluated by representatives of the commissioner, the University of Minnesota, the department of trade and economic development, other state agencies with regulatory authority or expertise in the subject matter of the application or in the certification process, and any other person named by the commissioner.

The commissioner shall make the final certification decision after the certification group prepares a recommendation. The application may be accepted, denied, or returned to the applicant for further action. The recommendation must be based upon the benefit of the certification to the producer or processor, the benefit to the state's agricultural economy, the costs to the state involved in certification and ongoing monitoring, the quality of internal and external audit controls to assure compliance with the terms of the certification, and other factors appropriate to best benefit the participants and the state.

Subd. 3. **Intellectual property.** The commissioner shall develop a logo and develop promotional material to best promote the use of certified products and procedures, and explore and implement procedures to best use the resources of the Internet in the promotion and distribution of Minnesota certified products and processes. To the extent practical, the Minnesota certification program must be coordinated with the Minnesota grown program under section 17.102 to accomplish the goals of both programs.

Subd. 4. **Certification revocation or suspension; misdemeanor.** A certification may be revoked or suspended by the commissioner without hearing if the terms of the certification are not being followed, the certification has become unused or obsolete, or the continued use of the certification is contrary to the interests of the state or the purpose of the certification program. Use of the certification after suspension or revocation is a misdemeanor and may also be enjoined by the commissioner in an action in district court.

Subd. 5. **Minnesota certified account.** A Minnesota certified account is created in the agricultural fund. The commissioner may establish fees in an amount estimated to make the certification program self-supporting. Fees may be determined on a case-by-case basis based on the services provided. All fees and reimbursements collected under this section must be deposited in the account. Money in the account, including interest earned, is annually appropriated to the commissioner to administer the Minnesota certification program.

Subd. 6. **No guarantee or warranty.** Certification does not constitute a guarantee or warranty as to any characteristic of any product or production process. The state and other parties involved in the certification decision may not be found liable for a certification or refusal to certify.

Subd. 7. **Expiration.** This section expires June 30, 2007.

**History:** 2000 c 477 s 2; 1Sp2001 c 2 s 21

**17.103** [Renumbered 116J.9671]

**17.104** [Renumbered 116J.9672]

17.105 [Renumbered 116J.9673]

17.106 [Repealed, 1984 c 654 art 2 s 155]

#### 17.107 FARM EQUIPMENT SAFETY AND MAINTENANCE PROGRAM FOR YOUTH.

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

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

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

**History:** 1991 c 254 art 3 s 1

17.108 [Repealed, 1Sp2001 c 2 s 162]

#### 17.109 MINNESOTA GROWN MATCHING ACCOUNT.

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

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

Subd. 3. **Appropriations must be matched by private funds.** Appropriations to the Minnesota grown matching account may be expended only to the extent that they are matched with contributions to the account from private sources on a basis of \$4 of the appropriation to each \$1 of private contributions. Matching funds are not available after the appropriation is encumbered. For the purposes of this subdivision, "private contributions" includes, but is not limited to, advertising revenue, listing fees, and revenues from the development and sale of promotional materials.

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

**History:** 1987 c 396 art 6 s 2; 1991 c 254 art 3 s 29; 1999 c 231 s 25; 1Sp2001 c 2 s 22

17.11 [Repealed, 1955 c 92 s 3]

#### 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

## SUSTAINABLE AGRICULTURE

### 17.114 SUSTAINABLE AGRICULTURE.

Subdivision 1. **Purpose.** To assure the viability of agriculture in this state, the commissioner shall investigate, demonstrate, report on, and make recommendations on the current and future sustainability of agriculture in this state. The department of agriculture is the lead state agency on sustainable agriculture and integrated pest management.

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Sustainable agriculture" represents the best aspects of traditional and modern agriculture by using a fundamental understanding of nature as well as the latest scientific advances to create integrated, self-reliant, resource conserving practices that enhance the enrichment of the environment and provide short- and long-term productive and economical agriculture.

(b) "Integrated pest management" means use of a combination of approaches, incorporating the judicious application of ecological principles, management techniques, cultural and biological controls, and chemical methods, to keep pests below levels where they do economic damage.

Subd. 3. **Duties.** (a) The commissioner shall:

(1) establish a clearinghouse and provide information, appropriate educational opportunities and other assistance to individuals, producers, and groups about sustainable agricultural techniques, practices, and opportunities;

(2) survey producers and support services and organizations to determine information and research needs in the area of sustainable agricultural practices;

(3) demonstrate the on-farm applicability of sustainable agriculture practices to conditions in this state;

(4) coordinate the efforts of state agencies regarding activities relating to sustainable agriculture;

(5) direct the programs of the department so as to work toward the sustainability of agriculture in this state;

(6) inform agencies of how state or federal programs could utilize and support sustainable agriculture practices;

(7) work closely with farmers, the University of Minnesota, and other appropriate organizations to identify opportunities and needs as well as assure coordination and avoid duplication of state agency efforts regarding research, teaching, and extension work relating to sustainable agriculture; and

(8) report to the environmental quality board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture every even-numbered year.

(b) The report under paragraph (a), clause (8), must include:

(1) the presentation and analysis of findings regarding the current status and trends regarding the economic condition of producers; the status of soil and water resources utilized by production agriculture; the magnitude of off-farm inputs used; and the amount of nonrenewable resources used by Minnesota farmers;

(2) a description of current state or federal programs directed toward sustainable agriculture including significant results and experiences of those programs;

(3) a description of specific actions the department of agriculture is taking in the area of sustainable agriculture;

(4) a description of current and future research needs at all levels in the area of sustainable agriculture; and

(5) suggestions for changes in existing programs or policies or enactment of new programs or policies that will affect farm profitability, maintain soil and water quality, reduce input costs, or lessen dependence upon nonrenewable resources.

Subd. 3a. [Repealed, 1994 c 557 s 6]

Subd. 4. **Integrated pest management.** (a) The state shall promote and facilitate the use of integrated pest management through education, technical or financial assistance, information and research.

(b) The commissioner shall coordinate the development of a state approach to the promotion and use of integrated pest management, which shall include delineation of the responsibilities of the state, public post-secondary institutions, Minnesota extension service, local units of government, and the private sector; establishment of information exchange and integration; procedures for identifying research needs and reviewing and preparing informational materials; procedures for factoring integrated pest management into state laws, rules, and uses of pesticides; and identification of barriers to adoption.

(c) The commissioner shall report to the environmental quality board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture every even-numbered year. The report shall be combined with the report required in subdivision 3.

**History:** 1989 c 326 art 2 s 2; 1994 c 557 s 4-7; 1999 c 86 art 3 s 1, 2

#### 17.115 SHARED SAVINGS LOAN PROGRAM.

Subdivision 1. **Establishment.** The commissioner shall establish a shared savings loan program to provide loans that enable farmers to adopt best management practices that emphasize sufficiency and self-sufficiency in agricultural inputs, including energy efficiency, reduction or improved management of inputs, increasing energy production by agricultural producers, and environmental improvements.

Subd. 2. **Loan criteria.** (a) The shared savings loan program must provide loans for purchase of new or used machinery and installation of equipment for projects that make environmental improvements or enhance farm profitability. Eligible loan uses do not include seed, fertilizer, or fuel.

(b) Loans may not exceed \$25,000 per individual applying for a loan and may not exceed \$100,000 for loans to four or more individuals on joint projects. The loan repayment period may be up to seven years as determined by project cost and energy savings. The interest on the loans is six percent.

(c) Loans may only be made to residents of this state engaged in farming.

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

(b) The applications must be reviewed, ranked, and recommended by a loan review panel appointed by the commissioner. The loan review panel shall consist of two

lenders with agricultural experience, two resident farmers of the state using sustainable agriculture methods, two resident farmers of the state using organic agriculture methods, a farm management specialist, a representative from a post-secondary education institution, and a chair from the department.

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

- (1) realize savings to the cost of agricultural production;
- (2) reduce or make more efficient use of energy or inputs;
- (3) increase overall farm profitability; and
- (4) result in environmental benefits.

(d) A loan application must show that the loan can be repaid by the applicant.

(e) The commissioner must consider the recommendations of the loan review panel and may make loans for eligible projects.

Subd. 4. **Administration; information dissemination.** The amount in the revolving loan account is appropriated to the commissioner to make loans under this section and administer the loan program. The interest on the money in the revolving loan account and the interest on loans repaid to the state may be spent by the commissioner for administrative expenses. The commissioner shall collect and disseminate information relating to projects for which loans are given under this section.

Subd. 5. **Farm manure digester technology.** Appropriations in Laws 1998, chapter 401, section 6, must be used for revolving loans for demonstration projects of farm manure digester technology. Notwithstanding the limitations of subdivision 2, paragraphs (b) and (c), loans under this subdivision are no-interest loans in principal amounts not to exceed \$200,000 and may be made to any resident of this state. Loans for one or more projects must be made only after the commissioner seeks applications. Loans under this program may be used as a match for federal loans or grants. Money repaid from loans must be returned to the revolving fund for future projects.

**History:** 1986 c 444; 1988 c 688 art 15 s 1; 1999 c 231 s 26; 1Sp2001 c 2 s 23

#### 17.116 SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.

Subdivision 1. **Establishment.** The commissioner shall establish a grant program for sustainable agriculture methods that demonstrates best management practices, including farm input reduction or management, enterprise diversification including new crops and livestock, farm energy efficiency or production, or the transfer of technologies that enhance the environment and farm profitability. The commissioner shall use the program to demonstrate and publicize the energy efficiency, environmental benefit, and profitability of sustainable agriculture techniques or systems from production through marketing. The grants must fund research or demonstrations on farms consistent with the program objectives.

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 research or 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) increased profitability for the individual farm by reducing costs or improving marketing opportunities.

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, an agricultural marketing specialist, two resident farmers of the state using

sustainable agriculture methods, two resident farmers of the state using organic 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:** 1986 c 444; 1988 c 688 art 15 s 2; 1997 c 216 s 21,22; 1999 c 231 s 27; 1Sp2001 c 2 s 24

#### **17.1161 SUSTAINABLE DEVELOPMENT OF MINNESOTA AGRICULTURE PROGRAM.**

Subdivision 1. **Establishment; framework.** The Minnesota institute for sustainable agriculture shall establish a framework for participatory problem-solving in local communities throughout rural Minnesota that will strengthen the connection between local communities, regions, and the land-grant university; invest research, education, and outreach dollars to meet agreed-upon local and regional needs; and foster the development of integrated agricultural systems that are profitable, enhance environmental quality, and support rural communities. The framework must include regional, community-controlled agricultural sustainable development centers located at University of Minnesota regional experiment stations. At each center, the Minnesota institute for sustainable agriculture shall facilitate the development of a leadership team comprised of farmers, researchers, public agencies, and other local community representatives to identify problems, chart trends in problems over time, and develop an understanding of the agricultural system as a whole, common goals for development of the system, and five-year action plans to address those goals. The Minnesota institute for sustainable agriculture shall appoint a statewide oversight group of persons with a thorough knowledge of agriculture-related issues, including farmers' organizations, commodity groups, rural economic development groups, the department of agriculture and other public agencies, academic personnel, the agricultural utilization research institute, the Minnesota extension service, and representatives from each regional leadership team. The oversight group shall review and comment on the regional centers' action plans and integrate them into a comprehensive agenda for long-term basic and applied research, education, and outreach activities. The oversight group shall use this agenda to make recommendations on the allocation of funds for regional or statewide use. The Minnesota institute for sustainable agriculture board of directors shall review and give final approval of the allocation of funds after consultation with the dean of the college of agricultural, food, and environmental sciences at the University of Minnesota.

Subd. 2. **Program areas.** Long-term research and education activities must be focused in four program areas:

- (1) sustainable cropping systems;
- (2) development of markets and agriculture-related businesses;
- (3) sustainable livestock systems; and
- (4) intergenerational transfer in agriculture.

**History:** 1996 c 407 s 11

### AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM

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

Subdivision 1. **Purpose.** The purpose of the agriculture best management practices loan program is to provide low or no interest financing to farmers, agriculture supply businesses, and rural landowners for the implementation of agriculture and other best management practices that reduce environmental pollution.

Subd. 2. **Authority.** The commissioner may develop administrative guidelines specifying criteria, standards, and procedures for making loans and establish, adopt rules for, and implement a program to make loans or otherwise provide funds 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 best management practices that prevent or mitigate pollution or other adverse environmental impacts. The agriculture best management practices loan program must provide a consistent programmatic framework for the disbursement and administration of funds available to the commissioner designated to the program for protection of environmental quality or remediation or mitigation of adverse environmental impacts. The distribution of loans or funds through the program must comply with all limitations, provisions, or requirements of the respective funding sources. Unless otherwise limited by the funding source, the commissioner shall manage the program using perpetual revolving fund accounts.

Subd. 3. **Appropriations.** Up to \$140,000,000 of the balance in the water pollution control revolving fund in section 446A.07, as determined by the public facilities authority, is appropriated to the commissioner for the establishment of this program. In addition, the commissioner may receive appropriations from the legislature and grants or funds from other sources for implementation of the program.

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

(b) "Agricultural and environmental revolving accounts" means accounts in the agricultural fund, controlled by the commissioner, which hold funds available to the program.

(c) "Agriculture supply business" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that provides materials, equipment, or services to farmers or agriculture-related enterprises.

(d) "Allocation" means the funds awarded to an applicant for implementation of best management practices through a competitive or noncompetitive application process.

(e) "Applicant" means a local unit of government eligible to participate in this program that requests an allocation of funds as provided in subdivision 6b.

(f) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2, or other practices, techniques, and measures that have been demonstrated to the satisfaction of the commissioner to prevent or reduce adverse environmental impacts by using the most effective and practicable means of achieving environmental goals.

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

(h) "Commissioner" means the commissioner of agriculture, including when the commissioner is acting in the capacity of chair of the rural finance authority, or the designee of the commissioner.

(i) "Committed project" means an eligible project scheduled to be implemented at a future date:

(1) that has been approved and certified by the local government unit; and

(2) for which a local lender has obligated itself to offer a loan.

(j) "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.

(k) "Cost incurred" means expenses for implementation of a project accrued because the borrower has agreed to purchase equipment or is obligated to pay for services or materials already provided as a result of implementing a prior approved eligible project.

(l) "Farmer" means a person, partnership, joint venture, corporation, limited liability company, association, firm, public service company, or cooperative that regularly participates in physical labor or operations management of farming and files a Schedule F as part of filing United States Internal Revenue Service Form 1040 or indicates farming as the primary business activity under Schedule C, K, or S, or any other applicable report to the United States Internal Revenue Service.

(m) "Lender agreement" means an agreement entered into between the commissioner and a local lender which contains terms and conditions of participation in the program.

(n) "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 with the authority to participate in the program.

(o) "Local lender" means a local government unit as defined in paragraph (n), a state or federally chartered bank, a savings association, a state or federal credit union, Agribank and its affiliated organizations, or a nonprofit economic development organization or other financial lending institution approved by the commissioner.

(p) "Local revolving loan account" means the account held by a local government unit and a local lender into which principal repayments from borrowers are deposited and new loans are issued in accordance with the requirements of the program and lender agreements.

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

(r) "Program" means the agriculture best management practices loan program in this section.

(s) "Project" means one or more components or activities located within Minnesota that are required by the local government unit to be implemented for satisfactory completion of an eligible best management practice.

(t) "Rural landowner" means the owner of record of Minnesota real estate located in an area determined by the local government unit to be rural after consideration of local land use patterns, zoning regulations, jurisdictional boundaries, local community definitions, historical uses, and other pertinent local factors.

**Subd. 5. Uses of funds.** Use of funds under this section must be in compliance with the rules and regulations of the funding source or appropriation. Use of funds from the public facilities authority must comply with the federal Water Pollution Control Act, section 446A.07, and eligible activities listed in the intended use plan authorized in section 446A.07, subdivision 4.

**Subd. 5a. Agricultural and environmental revolving accounts.** (a) There shall be established in the agricultural fund revolving accounts to receive appropriations, transfers of the balances from previous appropriations for the activities under this

section, and money from other sources. All balances from previous appropriations for activities under this section and repayments of loans granted under this section, including principal and interest, must be deposited into the appropriate revolving account created in this subdivision or the account created in subdivision 13. Interest earned in an account accrues to that account.

(b) The money in the revolving accounts and the account created in subdivision 13 is appropriated to the commissioner for the purposes of this section.

Subd. 6. **Application.** (a) Only the following local government units may apply for funds under this program:

- (1) counties or their designees;
- (2) soil and water conservation districts; and
- (3) joint power organizations consisting of counties or their designees or soil and water conservation districts.

(b) A county may submit an application for an allocation. A county or a group of counties may designate another local government unit to submit a local allocation request on their behalf. If a county does not submit an application, and does not designate another local government unit, a soil and water conservation district may submit an application for an allocation. If the local soil and water conservation district does not submit an application, then an eligible joint powers organization may submit an application for an allocation. In all instances, there may be only one application representing any geographic area. The applicant must coordinate and submit requests on behalf of other units of government within the geographic jurisdiction of the applicant.

(c) The commissioner must prescribe forms and establish an application process for applicants to apply for an allocation of funds. 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 an allocation; and (3) prioritization or targeting of proposed activities or projects.

(d) If an application 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. Failure of an applicant to be awarded funds does not constitute a rejection of the application.

Subd. 6a. **Review and ranking of applications.** (a) The commissioner shall chair the subcommittee established in section 103F.761, subdivision 2, paragraph (b), for purposes of reviewing and ranking applications and recommending to the commissioner allocation amounts. The subcommittee consists of representatives of the departments of agriculture, natural resources, and health; the pollution control agency; the board of water and soil resources; the Farm Service Agency and the Natural Resource Conservation Service of the United States Department of Agriculture; the Association of Minnesota Counties; the Minnesota Association of Soil and Water Conservation Districts; and other agencies or associations the commissioner determines are appropriate.

(b) The subcommittee must use the criteria in clauses (1) to (9) as well as other criteria it determines appropriate in carrying out the review and ranking:

(1) whether the proposed activities are identified in a comprehensive water management plan or other appropriate local planning documents as priorities;

(2) the potential that the proposed activities have for improving or protecting environmental quality;

(3) the extent that the proposed activities support areawide or multijurisdictional approaches to protecting environmental quality based on defined watershed or similar geographic areas;

(4) whether the activities are needed for compliance with existing environmental laws or rules;

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

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

(7) whether the applicant has targeted specific best management practices to resolve specific environmental problems;

(8) past performance of the applicant in completing projects identified in prior applications and allocation agreements; and

(9) whether there are off-site public benefits.

**Subd. 6b. Allocation amount.** (a) The subcommittee created in subdivision 6a shall recommend to the commissioner the amount of allocation for each applicant. This allocation must include:

(1) the amount of repayments received by the commissioner during the previous year from prior completed projects approved by the local government unit; and

(2) the amount of funds previously designated to committed projects.

(b) Within the limits of the funds available to the commissioner, the subcommittee may recommend an increased allocation award to the applicant based on:

(1) the ranking of the local government unit application under subdivision 6a; and

(2) the amount of unallocated or uncommitted funds in, or that will be received by, the agricultural and environmental revolving accounts within one year.

(c) Notwithstanding paragraphs (a) and (b), the commissioner may reserve up to two percent of all funds appropriated to the agricultural and environmental revolving accounts to be allocated to applicants that disburse or commit all of their current allocations or to local lenders who wish to provide financial assistance.

The commissioner may add, for the purposes of calculating future allocations under paragraphs (a) and (b), the loan amount for projects financed from these reserved funds to the allocation for the respective local government units in which jurisdiction the project was completed.

**Subd. 7. Payments to local lenders.** (a) Payments made from the commissioner to the local lender must be made in accordance with applicable state and federal laws and rules governing the payments and the lender agreement.

(b) Payments from the commissioner to the local lender must be disbursed on a cost-incurred basis. The request must be made in accordance with requirements and procedures established by the commissioner. Payment requests must be reviewed and approved by the commissioner.

**Subd. 8. Allocation agreement.** (a) Eligible local government units with an allocation award may enter into an allocation agreement with the commissioner and participate in this program.

(b) The allocation agreement must contain terms and conditions for participation in this program and providing of funds through this program, including, but not limited to: program requirements, reporting requirements, project eligibility and limitations, allowable expenses, limitations, rescission and cancellation provisions, and the responsibilities of the commissioner, local government unit, and local lender.

(c) If the commissioner determines that a local government unit is not in compliance with the terms of the allocation agreement, the commissioner may rescind all or part of any allocation awarded through this program.

**Subd. 9. Allocation rescission.** (a) Continued availability of allocations granted to a local government unit is contingent upon the commissioner's approval of the local government unit's annual report. The commissioner shall review this annual report to ensure that the past and future uses of the funds are consistent with the comprehensive water management plan, other local planning documents, the requirements of the funding source, and compliance to program requirements. If the commissioner concludes the past or intended uses of the money are not consistent with these require-

ments, the commissioner shall rescind all or part of the allocation awarded to a local government unit.

(b) The commissioner may rescind funds allocated to the local government unit that are not designated to committed projects or disbursed within one year from the date of the allocation agreement.

(c) An additional year to use the undisbursed portion of an allocation may be granted by the commissioner under extenuating circumstances.

**Subd. 9a. Authority and responsibilities of the local government units.** (a) A local government unit that enters into an allocation agreement with the commissioner:

(1) is responsible for the local administration and implementation of the program in accordance with this section;

(2) may submit applications for allocations to the commissioner;

(3) shall identify, develop, determine eligibility, define and approve projects, designate maximum loan amounts for projects, and certify completion of projects implemented under this program. In areas where no local government unit has applied for funds under this program, the commissioner may appoint a local government unit to review and certify projects or the commissioner may assume the authority and responsibility of the local government unit;

(4) shall certify as eligible only projects that are within its geographic jurisdiction or within the geographic area identified in its local comprehensive water management plans or other local planning documents;

(5) may require withholding by the local lender of all or a portion of the loan to the borrower until satisfactory completion of all required components of a certified project;

(6) must identify which account is used to finance an approved project if the local government unit has allocations from multiple accounts in the agricultural and environmental revolving accounts;

(7) shall report to the commissioner annually the past and intended uses of allocations awarded; and

(8) may request additional funds in excess of their allocation when funds are available in the agricultural and environmental revolving accounts, as long as all other allocation awards to the local government unit have been used or committed.

(b) If a local government unit withdraws from participation in this program, the local government unit, or the commissioner in accordance with the priorities established under subdivision 6a, may designate another local government unit that is eligible under subdivision 6 as the new local government unit responsible for local administration of this program. This designated local government unit may accept responsibility and administration of allocations awarded to the former responsible local government unit.

**Subd. 9b. Lender agreement.** (a) Any local lender entering into a lender agreement with the commissioner may participate in this program.

(b) The lender agreement will contain terms and conditions for participation in this program and providing funds to the local lenders, including but not limited to, program requirements, loan and account management requirements, payments, repayments, term limits, allowable expenses, fee limitations, rescission and cancellation provisions, collateral and security requirements, reporting requirements, review and appeal procedure for cancellation of the loan agreement or disqualification as a local lender, and the responsibilities of the commissioner, local government unit, and local lender.

(c) If the commissioner determines that a local lender is not in compliance with the terms of the lender agreement, the commissioner may take the following actions:

(1) disqualifying the local lender as a participating lender in this program for a period of up to five years from the date that the commissioner determines noncompliance to the lender agreement; and

(2) requiring immediate or accelerated repayment of all or part of all funds provided to the local lender.

(d) Existing lender agreements, executed prior to July 1, 2001, may be amended by mutual consent of all signatory parties, to comply with this section, to establish a single allocation agreement that includes the amount of prior allocation awards and defines the terms and conditions required under subdivision 8, or to modify the amount of allocation awarded.

Subd. 10. **Authority and responsibilities 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 eligible projects under this section.

(c) The local lender shall notify the local government unit of the loan amount issued to the borrower after the closing of each loan.

(d) Local lenders with local revolving loan accounts created before July 1, 2001, may continue to retain and use those accounts in accordance with their lending agreements for the full term of those agreements.

(e) Local lenders, including local government units designating themselves as the local lender, may enter into participation agreements with other lenders.

(f) Local lenders may 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.

(g) When required by the local government unit, a local lender must withhold all or a portion of the loan disbursement for a project until notified by the local government unit that the project has been satisfactorily completed.

(h) The local lender is responsible for repaying all funds provided by the commissioner to the local lender.

(i) The local lender is responsible for collecting repayments from borrowers. If a borrower defaults on a loan issued by the local lender, it is the responsibility of the local lender to obtain repayment from the borrower. Default on the part of borrowers shall have no effect on the local lender's responsibility to repay its obligations to the commissioner whether or not the local lender fully recovers defaulted amounts from borrowers.

(j) The local lender shall provide sufficient collateral or protection to the commissioner for the funds provided to the local lender. The commissioner must approve the collateral or protection provided.

Subd. 11. **Loans issued to borrower.** (a) Local lenders may issue loans only for projects that are approved and certified by the local government unit as meeting priority needs identified in a comprehensive water management plan or other local planning documents, are in compliance with accepted practices, standards, specifications, or criteria, and are eligible for financing under Environmental Protection Agency or other applicable guidelines.

(b) The local lender may use any additional criteria considered necessary to determine the eligibility of borrowers for loans.

(c) Local lenders shall set the terms and conditions of loans to borrowers, except that:

(1) no loan to a borrower may exceed \$50,000;

(2) no loan for a project may exceed \$50,000; and

(3) no borrower shall, at any time, have multiple loans from this program with a total outstanding loan balance of more than \$50,000.

(d) The maximum term length for conservation tillage and individual sewage treatment system projects is five years. The maximum term length for other projects in this paragraph is ten years.

(e) Fees charged at the time of closing must:

- (1) be in compliance with normal and customary practices of the local lender;
- (2) be in accordance with published fee schedules issued by the local lender;
- (3) not be based on participation program; and
- (4) be consistent with fees charged other similar types of loans offered by the local lender.

(f) The interest rate assessed to an outstanding loan balance by the local lender must not exceed three percent per year.

Subd. 11a. **Eligible projects.** All projects that remediate or mitigate adverse environmental impacts are eligible if:

(1) the project is eligible under the allocation agreement and funding sources designated by the local government unit to finance the project; and

(2) manure management projects remediate or mitigate impacts from facilities with less than 1,000 animal units as defined in Minnesota Rules, chapter 7020.

Subd. 12. **Data privacy.** The following data on local government units, local lenders, or borrowers collected by the commissioner under this section are private for data on individuals as provided in section 13.02, subdivision 12, or nonpublic for data not on individuals as provided in section 13.02, subdivision 9: financial information, including, but not limited to, credit reports, financial statements, tax returns and net worth calculations received or prepared by the commissioner.

Subd. 13. **Establishment of account.** The public facilities authority shall establish an account called the agriculture best management practices revolving account to provide loans and other forms of financial assistance authorized under section 446A.07. The account must be credited with repayments.

Subd. 14. [Repealed by amendment, 1Sp2001 c 2 s 25]

Subd. 15. **Commissioner's report.** (a) The commissioner shall prepare and submit a report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture by October 15 of each odd-numbered year.

(b) The report shall include, but need not be limited to, matters such as loan allocations and uses, the extent to which the financial assistance is helping implement local water and other environmental planning priorities, the integration or coordination that has occurred with related programs, and other matters deemed pertinent to the implementation of the program.

Subd. 16. **Liens against property.** (a) The amount of loans and accruing interest made by counties acting as local lenders under this section is a lien against the real property for which the improvement was made and must be assessed against the property or properties benefited unless the amount is prepaid. An amount loaned under the program and its accruing interest assessed against the property is a priority lien only against subsequent liens.

(b) The county may bill amounts due on the loan on the tax statement for the property. Enforcement of the lien created by this subdivision must, at the county's option, be in the manner set forth in chapter 580 or 581. When the amount due and all interest has been paid, the county shall file a satisfaction of the lien created under this subdivision.

(c) 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 acting as a local lender 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:** 1994 c 632 art 2 s 11; 1995 c 202 art 1 s 25; 1995 c 220 s 28-39; 1996 c 407 s 12; 1999 c 86 art 3 s 3; 1999 c 231 s 28; 1Sp2001 c 2 s 25; 2002 c 220 art 9 s 5

**17.12** [Repealed, 1955 c 92 s 3]

**17.13** [Repealed, 1955 c 92 s 3]

### FARM SOLID WASTE DISPOSAL

#### 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:** 1989 c 131 s 2; 1993 c 249 s 5

### FEEDLOT AND MANURE MANAGEMENT ADVISORY COMMITTEE

#### 17.136 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 21 members, but, after June 30, 1999, must include representatives from at least four environmental organizations, eight livestock producers, four experts in soil and water science, nutrient management, and animal husbandry, one commercial solid manure applicator who is not a producer, one commercial liquid manure applicator who is not a producer, and 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, 2003.

**History:** 1994 c 619 s 1; 1997 c 192 s 11; 1999 c 231 s 29; 2001 c 161 s 7

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

Subdivision 1. **Priorities.** (a) The commissioner, in consultation with the commissioner of the pollution control agency and the feedlot and manure management advisory committee, shall develop and maintain a list of manure management research and monitoring needs and priorities.

(b) The commissioner shall solicit the needs and ideas of livestock producers and consult with producers in developing the list.

(c) The commissioner shall also consult with agricultural and environmental researchers, state and federal agencies, and other appropriate organizations to identify current efforts as well as to assist in the development of research and monitoring needs and priorities.

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.

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:** 1994 c 619 s 2; 1995 c 233 art 1 s 3; 1997 c 7 art 2 s 6

17.139 [Repealed, 1Sp2001 c 2 s 162]

### DISCRIMINATION IN THE PURCHASE OF FARM PRODUCTS

#### 17.14 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2, 3, and 4 shall, for the purposes of sections 17.15 to 17.19, and 17.037, subdivisions 1 and 2, be given the meanings subjoined to them.

Subd. 2. [Repealed, 1996 c 310 s 1]

Subd. 3. **Farm products.** "Farm products" means butter, milk, cream, butterfat, cheese, other dairy products, honey, eggs, poultry, poultry products, perishable fresh fruits and vegetables, and all livestock and products of livestock such as wool, mohair, hides, and meats.

Subd. 4. **Bona fide competitor.** The term "bona fide competitor" means a duly licensed dealer in farm products maintaining a place of business in the same trade territory.

**History:** (6248-2,10522-4) 1927 c 252 s 2; 1935 c 100 s 1; 1937 c 420 s 1; 1990 c 530 s 1

### 17.15 DISCRIMINATION.

Any person engaged in the business of buying any farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, or cities, or between persons in the same community, in this state, by purchasing any farm products at a higher price or rate in one locality or from one person than is paid for farm products of the same kind, quality, and grade by such person in another section, locality, community, or city, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the reasonable cost of transportation from the locality of purchase to the locality of manufacture or sale, or who shall fail to deduct reasonable transportation costs from the purchase price paid, or who shall fail to deduct the reasonable costs of hauling when such products are gathered by wagon or truck, or who shall pay or offer to pay in trade or in exchange for goods, wares or merchandise a higher price for such farm products than the cash price paid or offered to be paid for such farm products, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Wherever the transportation costs actually charged for hauling cream shall be two cents or more per pound for butterfat therein contained, and 15 cents per 100 pounds for transportation of whole milk, such charge shall be deemed a compliance with the terms of sections 17.14 to 17.19. It shall not be unfair discrimination for any person to pay, in any section, locality, community, or city, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant.

**History:** (6248-3) 1927 c 252 s 3; 1937 c 420 s 2; 1945 c 122 s 1; 1973 c 123 art 5 s 7

### 17.16 PRIMA FACIE EVIDENCE OF DISCRIMINATION.

Proof that any person has paid a higher price for any such farm products in one section, locality, community, or city than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of sections 17.14 to 17.19.

**History:** (6248-4) 1927 c 252 s 4; 1973 c 123 art 5 s 7

### 17.17 COMPLAINTS; INVESTIGATIONS; PROSECUTIONS; FORFEITURES; INJUNCTIONS.

If complaint be made to the commissioner that any person is guilty of unfair discrimination defined by section 17.15, the commissioner shall investigate such complaint and may, upon personal initiative, investigate whether or not section 17.15 has been violated; and, in either event, for that purpose, may subpoena witnesses, administer oaths, take testimony, and if, in the commissioner's opinion, sufficient ground exists therefor, may prosecute an action, in the name of the state, in the proper court, to annul the act of incorporation or the existence of a corporation engaged in such business practice. If any corporation is adjudged by any court guilty of unfair discrimination as defined by section 17.15, such court may vacate the charter or revoke the authority of such corporation to do business in this state and may permanently enjoin it from transacting business in this state.

**History:** (6248-6) 1927 c 252 s 6; 1986 c 444

**17.18 PROSECUTIONS INSTITUTED BY OTHERS.**

The authority hereby extended to the commissioner shall be considered as duties only and shall not be construed to preclude any prosecuting officer or any party interested from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of sections 17.14 to 17.19.

**History:** (6248-8) 1927 c 252 s 8

**17.181 PENALTY.**

Any person violating the provisions of section 17.15 shall, upon conviction thereof, be fined not less than \$50 for each offense; or in default of the payment of such fine by imprisonment in the county jail for not less than three months nor more than one year.

**History:** (6248-7) 1927 c 252 s 7

**17.19 CONSTRUCTION.**

Nothing in sections 17.14 to 17.19 shall be construed as repealing any other act or part of any other act, unless inconsistent herewith, but the remedies therein provided shall be cumulative to all other remedies provided by law.

**History:** (6248-9) 1927 c 252 s 9; 1937 c 420 s 3

**17.20** [Repealed, 1949 c 559 s 20]

**17.201** [Repealed, 1971 c 638 s 20]

**17.202** [Repealed, 1971 c 638 s 20]

**17.203** [Repealed, 1971 c 638 s 20]

**17.204** [Repealed, 1971 c 638 s 20]

**17.205** [Repealed, 1971 c 638 s 20]

**17.206** [Repealed, 1971 c 638 s 20]

**17.207** [Repealed, 1971 c 638 s 20]

**17.208** [Repealed, 1971 c 638 s 20]

**17.209** [Repealed, 1971 c 638 s 20]

**17.21** [Repealed, 1949 c 559 s 20]

**17.211** [Repealed, 1971 c 638 s 20]

**17.212** [Repealed, 1971 c 638 s 20]

**17.213** [Repealed, 1971 c 638 s 20]

**17.214** [Repealed, 1971 c 638 s 20]

**17.215** [Repealed, 1971 c 638 s 20]

**17.216** [Repealed, 1971 c 638 s 20]

**17.217** [Repealed, 1971 c 638 s 20]

**17.218** [Repealed, 1971 c 638 s 20]

**17.219** [Repealed, 1971 c 638 s 20]

**17.22** [Repealed, 1949 c 559 s 20]

## WILDFLOWERS

**17.23 CONSERVATION OF CERTAIN WILDFLOWERS.**

Subdivision 1. **Prohibition.** No person within the state shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*), or any species of lady slipper (*Cypripedieae*), or any member of the orchid family, trillium of any species, lotus (*Nelumbolutea*), gentian (*Gentiana*), arbutus (*Epigaea repens*), or any species of lilies (*Lilium*), or any thereof, dug, cut, plucked, pulled, or gathered in any manner from any public land or from the land of any private owner without the written consent of such owner or other occupant of such land, and then only upon written permission of the commissioner, and for scientific and herbarium purposes; except, that any persons may upon their own lands cultivate for sale and sell these flowers by registering the purpose to do the same with the commissioner.

Subd. 2. **Prosecution.** The commissioner shall administer this section, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of subdivision 1, shall assemble the facts and transmit the same to the attorney general, or may act through the county attorney of the county in which the violation was committed, whose duty it shall be to forthwith institute proceedings and prosecute the same against any person or persons charged with such violation. It is hereby made the duty of the county attorney to prosecute any and all cases submitted by the commissioner or the attorney general.

Subd. 3. **Punishment.** Any person who violates any of the provisions of subdivision 1 shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than \$10 and the costs of such prosecution nor more than \$50 and the costs of such prosecution, or in default of payment thereof shall be imprisoned in the county jail for not less than ten nor more than 30 days for each and every such conviction. All fines and money thus collected shall be deposited in the state treasury.

**History:** (10522-1,10522-2,10522-3) 1925 c 409 s 1-3; 1935 c 100 s 1; 1986 c 444

## 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

**17.24** Subdivision 1. [Renumbered 17.037]

Subd. 2. [Renumbered 17.037]

Subd. 3. [Repealed, 1961 c 128 s 20]

**17.25** [Renumbered 17.042]

**17.26** [Repealed, 1955 c 92 s 3]

**17.27** [Repealed, 1955 c 92 s 3]

**17.28** [Renumbered 308.92]

**17.29** Subdivision 1. [Renumbered 17.181]

Subd. 2. [Repealed, 1949 c 559 s 20]

Subd. 3. [Renumbered 30.59]

Subd. 4. [Renumbered 17.219]

**17.30** [Renumbered 30.55]

**17.31** [Renumbered 30.56]

**17.32** [Renumbered 30.57]

**17.33** [Renumbered 30.58]

**17.34** [Repealed, Ex1959 c 73 s 1]

### FUR FARMING

**17.35** [Repealed, 1985 c 44 s 5]

#### **17.351 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 17.352 to 17.354.

Subd. 2. [Repealed, 1996 c 310 s 1]

Subd. 3. **Fur-bearing animal.** "Fur-bearing animal" means a fox, mink, fitch, chinchilla, karakul, marten, nutria, or fisher that is the second or later generation raised in captivity.

Subd. 4. **Fur farmer.** "Fur farmer" means a person engaged in breeding, raising, producing, and marketing fur-bearing animals or the products of fur-bearing animals.

**History:** 1985 c 44 s 1

#### **17.352 AGRICULTURAL PRODUCTS AND PURSUITS.**

Fur-bearing animals are domestic animals and products of fur-bearing animals are agricultural products. A fur farmer is engaged in an agricultural pursuit.

**History:** 1985 c 44 s 2

#### **17.353 FUR FARMER REGISTRATION.**

Subdivision 1. **Registration system.** The commissioner shall establish a registration system for fur farmers: The registration system shall be designed to maintain information required by the commissioner, United States Department of Agriculture, and other agencies.

Subd. 2. **Registration.** A fur farmer may register with the commissioner by submitting a completed registration form and a fee of \$10 to the commissioner by December 31. The registration is valid for a calendar year. The registration form must state the name of the applicant, the location of the fur farming activity, the species of fur-bearing animals on the fur farm, and other information required by the commissioner.

Subd. 3. **Tags for transportation and sale.** The commissioner shall, if requested, furnish registered fur farmers tags, without a fee, for the transport and sale of fur-bearing animals and their products. A fur farmer transporting or selling pelts of fur-bearing animals may attach the tag to a package containing pelts.

Subd. 4. **Annual reports of pelts sold.** A registered fur farmer must file a verified report of the number of pelts of each species of fur-bearing animal sold during the preceding calendar year. The report must be filed with the commissioner by December 31.

**History:** 1985 c 44 s 3

**17.354 APPLICATION.**

Sections 17.351 to 17.353 do not affect provisions of law relating to wild animals.

**History:** 1985 c 44 s 4

**17.36** [Renumbered 31.73]**17.37** [Repealed, 1961 c 128 s 20]**CHEMICALLY TREATED GRAIN****17.41 GRAIN DEFINED.**

Unless the language or context clearly indicates that a different meaning is intended, the term "grain" shall mean whole seeds or entire grains or any broken parts thereof, of field peas, field beans, soybeans or entire legumes, or flax, wheat, rye, barley, oats, corn, sorghum, spelt or emmer, vetch, buckwheat, or any other cereals.

**History:** 1955 c 415 s 1

**17.42 CHEMICALLY TREATED GRAIN, SALE.**

Subdivision 1. **Knowing sale of certain harmful grain.** It shall be unlawful for any person, firm, corporation, or association to sell, or offer for sale, or expose for sale, or to purchase for the purpose of resale, any grain for human, animal, or poultry consumption, if such grain contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, providing such person, firm, corporation or association knew or upon the exercise of reasonable diligence could have known of the presence in the grains in question of toxic chemicals in sufficient quantities to be harmful to humans, animals or poultry.

Subd. 2. **Sale without written notice of grain containing toxic chemicals.** It shall also be unlawful for any person knowingly to sell, or offer for sale, or expose for sale any grain for human, animal or poultry consumption, containing toxic chemicals in any quantity, without informing the purchaser, in writing, of such fact.

**History:** 1955 c 415 s 2

**17.43 VIOLATIONS; PENALTIES.**

Any person violating section 17.42, shall be guilty of a gross misdemeanor and shall be fined not less than \$250 or be imprisoned for not less than 60 days, or both.

**History:** 1955 c 415 s 3

**17.44 SEIZURE OF CHEMICALLY TREATED GRAIN; RECONDITIONING.**

Subdivision 1. **Court proceedings.** In the event grain is sold or offered for sale for the purpose of human, animal, or poultry consumption, which contains toxic chemicals in sufficient quantities to be harmful to humans, animals, or poultry, the district court of the judicial district in which the grain is found may, upon complaint and showing made by the commissioner of agriculture, order said grain to be seized. In the event the court finds that the grain is subject to seizure, it shall order the grain to be sold or otherwise disposed of for purposes other than human, animal, or poultry consumption. To this end the court may require the grain to be specially labeled, dyed, or otherwise altered in appearance. Upon application of the owner or any other person interested in the grain, the court shall permit such person at the person's own expense to recondition said grain and if, after reconditioning, it appears to the satisfaction of the court that the toxic chemicals have been removed so that the grain is no longer harmful to humans, animals, or poultry, the court then shall release the grain.

Subd. 2. **Right to sample and copy of analysis.** The court at any time after seizure and up to a reasonable time before trial shall allow any interested party, or the party's

attorney or agent, to obtain a representative sample of the grain seized and a true copy of the analysis on which the seizure is based.

**History:** 1955 c 415 s 4; 1961 c 113 s 1; 1986 c 444

### EUROPEAN RABBITS

17.45 [Repealed, 1Sp2001 c 2 s 162]

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

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

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; 1995 c 39 s 1

#### 17.452 FARM-RAISED CERVIDAE.

Subdivision 1. **Promotion and coordination.** 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, projects, 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.

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

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 cervidae if the farmed cervidae are not returned or captured by the owner within 24 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. 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 24 hours after escape may be destroyed.

Subd. 6a. **Wild cervidae inside confinement area.** An owner, or employee or agent under the direction of the owner, must destroy wild cervidae found within the owner's farmed cervidae confinement area. The owner, employee, or agent must report the wild cervidae destroyed to a conservation officer or an employee of the department of natural resources, division of wildlife, within 24 hours. The wild cervidae must be disposed of as prescribed by the commissioner of natural resources.

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. 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.

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 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.

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; 1995 c 39 s 2,3; 1999 c 86 art 2 s 1; 2002 c 373 s 2,3

## 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. [Repealed, 1997 c 220 s 5]

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

## EURASIAN WILD PIGS

### 17.457 RESTRICTED SPECIES.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Restricted species" means Eurasian wild pigs and their hybrids (*Sus scrofa* subspecies and *Sus scrofa* hybrids), excluding domestic hogs (*S. scrofa domesticus*).

(d) "Release" means an intentional introduction or escape of a species from the control of the owner or responsible party.

Subd. 2. **Importation; possession; release of restricted species.** It is unlawful for a person to import, possess, propagate, transport, or release restricted species, except as provided in subdivision 3.

Subd. 3. **Permits.** (a) The commissioner may issue permits for the transportation, possession, purchase, or importation of restricted species for scientific, research, educational, or commercial purposes. A permit issued under this subdivision may be revoked by the commissioner if the conditions of the permit are not met by the permittee or for any unlawful act or omission, including accidental escapes.

(b) The commissioner may issue permits for a person to possess and raise a restricted species for commercial purposes if the person was in possession of the restricted species on March 1, 1993. Under the permit, the number of breeding stock of the restricted species in the possession of the person may not increase by more than 25 percent and the person must comply with the certification requirements in subdivision 7.

(c) A person may possess a restricted species without a permit for a period not to exceed two days for the purpose of slaughtering the restricted species for human consumption.

Subd. 4. **Notice of escape of restricted species.** In the event of an escape of a restricted species, the owner must notify within 24 hours a conservation officer and the board of animal health and is responsible for the recovery of the species. The commissioner may capture or destroy the escaped animal at the owner's expense.

Subd. 5. **Enforcement.** This section may be enforced under sections 97A.205 and 97A.211.

Subd. 6. **Penalty.** A person who violates subdivision 2, 4, or 7 is guilty of a misdemeanor.

Subd. 7. **Certification and identification requirements.** (a) A person who possesses restricted species on July 1, 1993, must submit certified numbers of restricted species in the person's possession to the board of animal health by June 1, 1993.

(b) Restricted species in the possession of a person must be marked in a permanent fashion to identify ownership. The restricted species must be marked as soon as practicable after birth or purchase.

Subd. 8. **Containment.** The commissioner, in consultation with the commissioner of natural resources, shall develop criteria for approved containment measures for restricted species with the assistance of producers of restricted species.

Subd. 9. **Bond; security.** A person who possesses restricted species must file a bond or deposit with the commissioner security in the form and in the amount determined by the commissioner to pay for the costs and damages caused by an escape of a restricted species.

Subd. 10. **Fee.** The commissioner shall impose a fee for permits in an amount sufficient to cover the costs of issuing the permits and for facility inspections. The fee may not exceed \$50. Fee receipts must be deposited in the general fund.

**History:** 1993 c 129 s 3; 1994 c 623 art 1 s 16-18,46; 1999 c 231 s 30; 1Sp2001 c 2 s 26

## 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

## AQUACULTURE

### 17.46 SHORT TITLE.

Laws 1991, chapter 309, sections 4 to 16, may be cited as the Aquaculture Development Act.

**History:** 1991 c 309 s 3

### 17.47 DEFINITIONS.

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

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

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

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

Subd. 5. [Repealed, 1996 c 310 s 1]

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

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

**History:** 1991 c 309 s 4; 1994 c 465 art 2 s 3; 2002 c 351 s 1

### 17.49 AQUACULTURE PROGRAM AND PROMOTION.

Subdivision 1. [Repealed, 2001 c 161 s 58]

Subd. 2. **Coordination.** Aquaculture programs in the state must be coordinated through the commissioner of agriculture. The commissioner of agriculture shall direct the development of aquaculture in the state. Aquaculture research, projects, and demonstrations must be reported to the commissioner before state appropriations for

the research, projects, and demonstrations are encumbered. The commissioner shall maintain a database of aquaculture research, demonstrations, and other related information pertaining to aquaculture in the state.

Subd. 2a. **Development program.** The commissioner may establish a Minnesota aquaculture development and aid program that may support applied research, demonstration, financing, marketing, promotion, broodstock development, and other services.

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

**History:** 1987 c 186 s 15; 1987 c 312 art 1 s 26 subd 2; 1987 c 318 s 1; 1989 c 350 art 4 s 1; 1990 c 502 s 1,2; 1991 c 309 s 5; 1991 c 345 art 2 s 11; 1993 c 163 art 1 s 1; 1997 c 192 s 12

#### 17.491 AQUACULTURE IS AGRICULTURAL PURSUIT.

Aquaculture is an agricultural pursuit.

**History:** 1989 c 350 art 4 s 2

17.492 [Repealed, 1991 c 309 s 17]

#### 17.494 AQUACULTURE PERMITS; RULES.

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

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

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

**History:** 1991 c 309 s 6

#### 17.495 APPEAL PROCEDURES.

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

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

**History:** 1991 c 309 s 7

#### 17.496 QUARANTINE FACILITY; RULES.

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

**History:** 1991 c 309 s 8

#### 17.497 EXOTIC SPECIES IMPORTATION; RULES.

The commissioner of natural resources shall establish rules, in consultation with the commissioner of agriculture and the aquaculture advisory committee, for approving or rejecting importation of "exotic" or genetically altered aquatic species to protect the

integrity of the natural ecosystem and provide aquatic farmers with information that may affect business decisions.

**History:** 1991 c 309 s 9

#### 17.498 RULES; FINANCIAL ASSURANCE.

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

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

(2) classes, types, sizes, and categories of aquaculture facilities;

(3) temporary reversible impacts versus long-term impacts on water quality;

(4) effects on drinking water supplies that cause adverse human health concerns; and

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

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

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

**History:** 1991 c 309 s 10; 1999 c 86 art 3 s 4

#### 17.4981 GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.

Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife. Aquatic farms must be licensed and given classifications to prevent or minimize impacts on natural resources. The purpose of sections 17.4981 to 17.4997 is to:

(1) prevent public aquatic life from entering an aquatic farm;

(2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner;

(3) protect against release of disease pathogens to public waters;

(4) protect existing natural aquatic habitats and the wildlife dependent on them; and

(5) protect private aquatic life from unauthorized taking or harvest.

Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

**History:** 1992 c 566 s 1

#### 17.4982 DEFINITIONS.

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

Subd. 2. **Approved laboratory methods.** "Approved laboratory methods" means methods described in the latest edition of the "Procedures for the Detection and Identification of Certain Fish Pathogens" published by the American Fisheries Society Fish Health Section known as the Fish Health Blue Book.

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.

Subd. 3. **Aquarium facilities.** "Aquarium facilities" means facilities that rear or hold private aquatic life for sale for aquarium or display purposes.

Subd. 4. **Aquatic farm.** "Aquatic farm" means a licensed facility used for hatching, raising, rearing, and culturing private aquatic life in waters and preparing aquatic life for sale, including, but not limited to, ponds, vats, tanks, raceways, and other indoor or outdoor facilities that an aquatic farmer owns or waters of which an aquatic farmer has the use.

Subd. 5. **Aquatic life.** "Aquatic life" has the meaning given to "private aquatic life" in section 17.47, subdivision 7, and for purposes of commercial transactions, aquatic life is livestock.

Subd. 6. **Certifiable diseases.** "Certifiable diseases" include channel catfish virus, bacterial kidney disease, bacterial furunculosis, enteric redmouth disease, enteric septicemia of catfish, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, proliferative kidney disease, viral hemorrhagic septicemia virus, epizootic epitheliotropic virus, ceratomyxosis, and any emergency disease.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of natural resources.

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 that is prohibited from being released into the wild and must be kept in a facility approved by the commissioner unless processed for food consumption;

(4) contains aquatic life requiring a fish health inspection prior to transportation.

Subd. 8a. **Emergency enzootic disease area.** "Emergency enzootic disease area" means an enzootic disease area that harbors an emergency fish disease. Trout, salmon, or catfish species are from an emergency enzootic disease area only if the individual species in question can carry one or more of the emergency fish disease pathogens present.

Subd. 9. **Emergency fish disease.** "Emergency fish disease" means designated fish diseases not already present in this state that could impact populations of aquatic life if inadvertently released by infected aquatic life, including channel catfish virus, viral hemorrhagic septicemia virus, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, ceratomyxosis, proliferative kidney disease, and epizootic epitheliotropic virus disease.

Subd. 10. **Enzootic disease area.** "Enzootic disease area" means an area with well-defined geographic boundaries which harbors one or more certifiable diseases pathogens.

Subd. 11. **Fish Health Blue Book.** "Fish Health Blue Book" means the standardized set of procedures and guidelines established and published by the American Fisheries Society Fish Health Section for the detection and isolation of fish pathogens.

Subd. 12. **Fish health inspection.** "Fish health inspection" means an on-site, statistically based sampling in accordance with processes in the Fish Health Blue Book for all lots of fish in a facility. The inspection must include at least viral testing of ovarian fluids at the 95 percent confidence level of detecting two percent incidence of disease (ovarian fluids must be sampled for certification of viral hemorrhagic septicemia and infectious hematopoietic necrosis). Bacterial diseases must be sampled at the 95 percent confidence level with a five percent incidence of disease. The inspection must be performed by a fish health inspector in cooperation with the producer with subsequent examination of the collected tissues and fluids for the detection of certifiable diseases.

Subd. 13. **Fish health inspector.** "Fish health inspector" means an individual certified as a fish health inspector by the American Fisheries Society or state, federal, or provincial resource management agency, except that a certification may not be made by an inspector who has a conflict of interest in connection with the outcome of the certification.

Subd. 14. **Game fish.** "Game fish" has the meaning given in section 97A.015, subdivision 25, except that green or orange spotted sunfish are not game fish for purposes of determining fish of significant public value.

Subd. 15. **Intensive culture.** "Intensive culture" means the rearing of fish at densities greater than can be supported in the natural environment.

Subd. 16. **Licensed facility.** "Licensed facility" means a licensed aquatic farm, including all licensed waters.

Subd. 17. **Lot.** "Lot" means a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply, or various age groups of adult brood stock of the same species that have shared the same containers for one brood cycle.

Subd. 18. **Minnows.** "Minnows" has the meaning given in section 97A.015, subdivision 29, except the 12-inch restriction on sucker minnows does not apply.

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.

Subd. 19. **Public waters.** "Public waters" has the meaning given in section 103G.005, subdivision 15.

Subd. 20. **Quarantine facility.** "Quarantine facility" means a culture system that is enclosed in a building and is separated from other fish culture facilities where fish can be isolated and maintained while preventing their introduction and pathogen introduction into the environment.

Subd. 21. **Standard facility.** "Standard facility" means a licensed facility that is not a quarantine or containment facility.

Subd. 22. **Waters of the state.** "Waters of the state" has the meaning given in section 103G.005, subdivision 17.

**History:** 1992 c 566 s 2; 1993 c 226 s 1-3; 1996 c 410 s 3-7; 1997 c 226 s 1-3

#### 17.4983 AQUATIC FARM OPERATIONS.

Subdivision 1. **Acquisition and sale of private aquatic life.** Aquatic life legally possessed may be bought, acquired, and sold by licensed facilities as provided in sections 17.4981 to 17.4997.

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 to 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.

Subd. 3. **Methods to harvest aquatic life.** Licensed facilities may use all reasonable methods to operate and harvest aquatic life from licensed facilities, including available nets.

Subd. 4. **Discharge may require permit.** The discharge from an aquatic farm must comply with discharge permits required by the Minnesota pollution control agency.

Subd. 5. **Ownership of aquatic life.** (a) Notwithstanding other provisions of law, aquatic life lawfully acquired and possessed by a licensed facility is private aquatic life and property of the owner of the licensed facility.

(b) The state may not seize or otherwise confiscate private aquatic life without due process of law, except that private aquatic life in public waters may become property of the state if the waters are not part of a licensed facility. The commissioner shall notify the licensee that the aquatic life in a facility that is no longer licensed will become property of the state if the aquatic life is not removed. If the licensee does not respond in writing within 30 days after receiving the notice and make alternative arrangements, or does not remove the aquatic life by 60 ice-free days after receiving the notice, the private aquatic life becomes property of the state.

(c) Private aquatic life that is transferred to the state or released into public waters that are not part of a licensed facility is owned by the state and may be considered wildlife.

Subd. 6. **Control of licensed waters.** (a) If the public cannot legally access waters of the state that are part of a licensed aquatic farm except by permission of the licensee, the use of the waters by the public is subject to restriction by the licensee.

(b) Waters of the state may not be licensed for aquaculture use to more than one licensee.

Subd. 7. **Angling in licensed waters.** A person may not take fish by angling from waters subject to subdivision 6 unless the person has written permission from the licensee and:

- (1) has an invoice when in possession of fish; or
- (2) takes fish under an angling license, subject to the limits and conditions in the game and fish laws.

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

**History:** 1992 c 566 s 3; 1993 c 226 s 4; 1997 c 226 s 4

#### 17.4984 AQUATIC FARM LICENSE.

Subdivision 1. **License required.** (a) A person or entity may not operate an aquatic farm without first obtaining an aquatic farm license from the commissioner.

(b) Applications for an aquatic farm license must be made on forms provided by the commissioner.

(c) Licenses are valid for five years and are transferable upon notification to the commissioner.

(d) The commissioner shall issue an aquatic farm license on payment of the required license fee under section 17.4988.

(e) A license issued by the commissioner is not a determination of private property rights, but is only based on a determination that the licensee does not have a significant detrimental impact on the public resource.

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. When artificial tanks, jars, or other containers are added to existing licensed facilities, an additional inspection is not required.

(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, at the commissioner's option, and taking into consideration the recommendation of the licensed applicant, sold to the licensee, or removed 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.

(g) Carp and bullheads may be removed from licensed waters, and transported and disposed of by the licensee.

Subd. 3. **Listed species.** (a) An aquatic farm license must list the species of aquatic life appropriate for the classification of the waters. Listed species of aquatic life may be

changed on written request to and approval by the area fisheries supervisor. Species of aquatic life regulated under chapter 97A, 97B, or 97C may not be cultured unless listed on the license.

(b) All waters licensed before July 1, 1992, under a private fish farm or fish hatchery license must be approved for species listed under current licenses if other conditions for licensing are met.

(c) If licensed waters are located within a 25-year floodplain and are not enclosed within a building, species of aquatic life may be licensed at the discretion of the commissioner.

(d) Licensed waters located outside of a 25-year floodplain or enclosed within a building may be licensed for any species, except that the commissioner may deny licensing for species not present in the state.

**Subd. 4. Single license for aquatic farming operation.** The commissioner shall issue a single license for aquatic farming, with the following information and endorsements:

- (1) waters covered by the license;
- (2) classification of each of the licensed waters;
- (3) aeration endorsement for each licensed water where the licensee has exclusive control of riparian access or where the conditions for an aeration permit have been met; and
- (4) endorsements requested by the licensee.

**Subd. 5. State list of waters.** If the state uses waters of the state for aquatic farming, the state shall acquire legal access to the waters and make documentation of the access available to the public.

**Subd. 6. Inspections and enforcement.** (a) The premises, property, vehicles, private aquatic life, and equipment where private aquatic farm operations are being conducted are subject to reasonable and necessary inspections at reasonable times by conservation officers. The reason for the inspection must be provided in writing. The owner, operator, or designee may be present when inspections are conducted.

(b) Conservation officers may enforce sections 17.4981 to 17.4997 under section 97A.205.

**Subd. 7. Nonpublic records.** (a) Licensees must keep complete, up-to-date, nonpublic records of the operation of the aquatic farm. The records must remain available for at least three years.

(b) The records must be in English and include the following information:

- (1) for each species acquired, the number or pounds of fish or eggs acquired, names and addresses of the sources from which acquired, and the dates of receipt;
- (2) for each species sold or disposed of, the number or pounds of fish sold or disposed of, the names and addresses of the purchasers or persons to whom the conveyances are made, and the dates of sale; and
- (3) for fish sperm or viable eggs, the amount acquired or sold, the names and addresses of the sources from which acquired, the purchasers to whom conveyed, and the dates of purchase or sale.

(c) On or before March 1 of each year, the licensee shall submit a complete annual report on a form furnished by the commissioner, covering the number or pounds of all species sold or purchased in the preceding licensed year.

(d) An aquatic farmer shall maintain records for reasonable inspection by the commissioner. Information on aquatic life production, harvest, and sales is nonpublic information.

**History:** 1992 c 566 s 4; 1993 c 226 s 5; 1996 c 410 s 8,9; 2000 c 331 s 1-3

## 17.4985 TRANSPORTATION OF AQUATIC LIFE.

**Subdivision 1. Requirements for importation, transportation within the state, or stocking of fish.** Except as provided in subdivision 3, a licensee may not import aquatic

life into the state, transport aquatic life within the state, or stock waters of the state with aquatic life without first obtaining a bill of lading or transportation permit from the commissioner, with disease certification, if applicable.

Subd. 2. **Bill of lading.** (a) A state-issued bill of lading is required for:

(1) intrastate transportation of aquatic life other than salmonids and catfish between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the species being transported if the aquatic life is being transported into a watershed where it is not currently present, if walleyes whose original source is south of marked state highway No. 210 are being transported to a facility north of marked state highway No. 210, or if the original source of the aquatic life is outside Minnesota and contiguous states; and

(2) stocking of waters other than public waters with aquatic life other than salmonids and catfish.

(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 state-issued 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;

(8) fish being transported through the state if accompanied by shipping documents;

or

(9) intrastate transportation of aquatic life between or within licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the species being transported, 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 they have had a fish health inspection within the preceding year that 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.

**Subd. 4. Transportation permit requirements.** A transportation permit is required for all importation, transportation, or stocking of private aquatic life not covered by subdivision 2 or exempted in subdivision 3. A transportation permit may be used for multiple shipments within the 30-day term for the permit if the source and the destination remains the same. Transportation permits, which may authorize importation or stocking of public waters, may be issued through department of natural resources regional offices or the St. Paul office, and must be obtained prior to shipment.

**Subd. 5. Permit application.** An application for a transportation permit must be made on forms provided by the commissioner. An incomplete application must be rejected. An application for a transportation permit for salmonids and catfish, their eggs, or sperm must be accompanied by certification that the source of the eggs or sperm are free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported, transported, or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported, transported, or stocked into areas where the disease has been previously introduced. A copy of the transportation permit showing the date of certification inspection must accompany the shipment of fish while in transit and must be available for inspection by the commissioner. By 14 days after a completed application is received, the commissioner must approve or deny the importation permits as provided in this section.

**Subd. 6. Vehicle identification.** (a) A vehicle used by a licensee for transporting aquatic life must be identified with the licensee's name and town of residence as it appears on the license and the license number.

(b) A vehicle used by a licensee must have identification displayed so that it is readily visible from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and with a three-eighths inch wide stroke. Identification may be permanently affixed to vehicles or displayed on removable plates or placards placed on opposite doors of the vehicle or on the tanks carried on the vehicle.

(c) An application to license a vehicle for minnow transport or export or for use as a fish vendor that is received by the commissioner is a temporary license until it is approved or denied.

**History:** 1992 c 566 s 5; 1993 c 226 s 6,7; 1996 c 410 s 10,11

#### 17.4986 IMPORTATION OF AQUATIC LIFE.

**Subdivision 1. Importation and stocking restrictions.** A person may not import fish into or stock fish in the state without first obtaining a transportation permit with a disease certification when required or a bill of lading from the commissioner, unless the person is exempted.

**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 enzootic 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 enzootic 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 enzootic disease area cannot demonstrate a history free from disease, aquatic life may only be imported into a quarantine facility.

**Subd. 3. Emergency enzootic disease area.** Except as otherwise provided and 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, fish may be imported from emergency enzootic disease areas only as fertilized eggs under the following conditions:

(1) to be imported into a standard facility, fertilized eggs must have a disease-free history for at least five years;

(2) to be imported into a containment facility, fertilized eggs must have a disease-free history for at least three years; or

(3) to be imported into a quarantine facility, fertilized eggs may have a disease-free history of less than three years.

**Subd. 4. Disease-free history.** Disease-free histories required under this section must include the results of a fish health inspection. 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:** 1992 c 566 s 6; 1993 c 226 s 8,9; 1996 c 410 s 12

#### 17.4987 STOCKING PRIVATE AQUATIC LIFE.

(a) A person may not release private aquatic life into public waters that are not licensed as part of an aquatic farm without first obtaining a transportation permit from the commissioner. The commissioner may deny issuance of a permit if releasing the private aquatic life is not consistent with the management plan for the public waters. The commissioner shall make management plans available to the public.

(b) If a permit is denied, the commissioner must provide reasons for the denial in writing.

**History:** 1992 c 566 s 7

#### 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 \$70.

(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:** 1992 c 566 s 8; 1996 c 410 s 13,14; 1997 c 216 s 24; 2000 c 488 art 3 s 8

#### 17.4991 DISEASE TRANSMISSION.

Subdivision 1. **Facility designation.** (a) The licensee may apply to the commissioner for designation of all or a portion of a facility as a standard, containment, or quarantine facility on forms prescribed by the commissioner as part of the license application or separately.

(b) By 15 business days after an application is submitted, the commissioner must notify the applicant if there are any deficiencies in the application. By 30 business days after a complete application is submitted, the commissioner shall approve or deny the designation requested. A denial must include an assessment of the actual risk to wildlife populations at the particular site. A containment designation must be approved if the facility meets the disinfection requirements of subdivision 2 and complies with section 17.4982, subdivision 8.

Subd. 2. **Disinfection.** (a) Containment facilities must disinfect effluent prior to discharge to public waters. The effluent required to be disinfected includes water used by a containment facility in the production of the aquatic life of concern, waste or mortalities from the aquatic life of concern, and live forage or commercial feed discarded from the containment facility. Runoff from precipitation and excess water from natural springs, wells, or other sources that is not used in the production of aquatic life is not effluent to be disinfected.

(b) The disinfection must minimize the potential release of disease pathogens to wildlife susceptible to the pathogens based on a reasonable risk assessment. Disinfection treatment processes may include chlorination or other processes. If chlorine disinfection is utilized, a measurable residual level of 1.0 parts per million of active chlorine in the effluent must be maintained for one hour of retention time. The effluent must be sufficiently dechlorinated to prevent toxic adverse impacts to wildlife after discharge to public waters.

(c) A disinfection treatment process must ensure uninterrupted effluent treatment in the event of electrical power failure, a primary system failure, or other similar events that would cause treatment interruptions.

(d) The effluent disinfection process must be sited, designed, and operated in a manner that allows inspection by the commissioner at all times to determine whether adequate effluent disinfection is maintained.

(e) The commissioner may prescribe reasonable documentation of daily monitoring of treatment system performance to be included in the licensee's annual report. The

records must be available for daily inspection by the commissioner during normal business hours and maintained for three years.

**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 a fish health inspection conducted at least once every 12 months 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:** 1992 c 566 s 9; 1993 c 226 s 10-12; 1996 c 410 s 15

#### 17.4992 GAME FISH.

**Subdivision 1. Acquisition and purchase.** Game fish sperm, viable game fish eggs, or live game fish may not be taken from public waters for aquaculture purposes, but may be purchased from the state or acquired from aquatic farms.

**Subd. 2. Restriction on the sale of game fish.** (a) Except as provided in paragraph (b), species of the family salmonidae or ictaluridae, except bullheads, must be free of certifiable diseases if sold for stocking or transfer to another aquatic farm.

(b) The following exceptions apply to paragraph (a):

(1) Eggs with enteric redmouth, whirling disease, or furunculosis may be transferred between licensed facilities or stocked following treatment approved by the commissioner.

(2) Fish with bacterial kidney disease may be transferred between licensed facilities or stocked in areas where the disease has been previously introduced.

(3) The commissioner may allow transfer between licensed facilities or stocking of fish with enteric redmouth or furunculosis when the commissioner determines that doing so would pose no threat to the state's aquatic resources.

Subd. 3. **Acquisition of fish for brood stock.** (a) Game fish brood stock may be sold to private fish hatcheries or aquatic farms by the state at fair wholesale market value. For brood stock development, up to 20 pair of adults of each species requested may be provided to a licensee once every three years, if available, by the state through normal operations.

(b) If brood stock is not available by the June 1 following the request under paragraph (a) and a permit to take brood stock by angling is requested by the licensee, within 30 days of the request, the commissioner may issue a permit to the licensee to take, by angling, up to 20 pairs of each species requested. Game and fish laws and rules relating to daily limits, seasons, and methods apply to the taking of fish by angling pursuant to a permit issued under this paragraph.

Subd. 4. **Sale of eggs by the state.** The commissioner may offer for sale as eggs or fry up to two percent of the department's annual game fish egg harvest. Additional eggs or fry may be sold if they are surplus to this state's program needs.

Subd. 5. **Purchase of eggs dependent upon facility.** Licensees may purchase game fish eggs or fry from the state at a rate based on the capacity of their facility to hatch and rear fish. Licensees may purchase walleye at a rate of no more than one-half quart of eggs or 5,000 fry for each acre or fraction of licensed surface water. This limitation may be waived if an aquatic farm is an intensive culture facility. The allowable purchase of trout or salmon eggs must be based on the capacity of rearing tanks and flow of water through the aquatic farm facility.

Subd. 6. **Stocking walleyes north of marked state highway No. 210.** Walleyes from outside of the area of the state north of marked state highway No. 210 may not be stocked in waters of the state north of marked state highway No. 210 without approval by the commissioner.

**History:** 1992 c 566 s 10; 1993 c 226 s 13; 1996 c 410 s 16,17; 2000 c 331 s 4

#### 17.4993 MINNOWS.

Subdivision 1. **Taking from public waters.** A licensee may take minnow sperm, minnow eggs, and live minnows from public waters for aquatic farm purposes under an aquatic farm license, except that sucker eggs and sperm may only be taken with a sucker egg license endorsement as provided by section 17.4994.

Subd. 2. **Importation of live minnows.** Minnows from outside the state may not be imported live by a licensee for purposes other than processing or feeding aquatic farm fish.

**History:** 1992 c 566 s 11; 1996 c 410 s 18

#### 17.4994 SUCKER EGGS.

Sucker eggs may be taken from public waters with a sucker egg license endorsement, which authorizes sucker eggs to be taken at a rate of one quart of eggs for each 1-1/2 acres of licensed surface waters except that for intensive culture systems, sucker eggs may be taken at a rate of two quarts per 1,000 muskellunge fry being reared. The taking of sucker eggs from public waters is subject to chapter 97C and may be supervised by the commissioner.

**History:** 1992 c 566 s 12

#### 17.4995 RECEIPTS TO THE GAME AND FISH FUND.

Money received by the state under sections 17.4981 to 17.4997 must be deposited in the state treasury and credited to the game and fish fund.

**History:** 1992 c 566 s 13

**17.4996 WHITE EARTH INDIAN RESERVATION.**

Until the commissioner reaches an agreement with the White Earth Indian Reservation regarding the acquisition and sale of aquatic life from public waters, an aquatic farm licensee may acquire and transport rough fish, as defined in section 97A.015, subdivision 43, and yellow perch lawfully acquired and possessed by a tribal member for sale under tribal laws and regulations on the White Earth Reservation. Transportation of yellow perch off the reservation must be accompanied by documentation showing the source and number of the yellow perch.

**History:** 1992 c 566 s 14

**17.4997 RULES.**

The commissioner may adopt rules that are consistent with sections 17.4981 to 17.4996. The commissioner must notify the Minnesota aquaculture commission and the commissioner of agriculture prior to publication of the proposed rules.

**History:** 1992 c 566 s 15

**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:** 1993 c 226 s 14; 1997 c 226 s 5

**17.4999 STORAGE, HANDLING, AND DISPOSAL OF FISH MANURE.**

Fish manure from aquatic farm operations:

(1) is subject to the same requirements under state law and rules as other animal manures; and

(2) if managed in a pond system, may be applied as a manipulated manure under chapter 18C if certified by the commissioner.

**History:** 1994 c 561 s 1

**COMMODITIES PROMOTION****17.50 POLICY.**

The state must explore alternative uses for agricultural products to enable the state's agricultural economy to reach its full potential. The state must promote and encourage cooperative efforts between public and private interests in conducting basic research and disseminating the results on agricultural commodity utilization.

**History:** 1987 c 396 art 8 s 2

**17.51 CITATION; AGRICULTURAL COMMODITIES PROMOTION ACT.**

Sections 17.51 to 17.69 may be cited as the Agricultural Commodities Promotion Act.

**History:** 1969 c 1021 s 1

**17.52 PURPOSE.**

It is hereby declared to be in the interest of the public welfare that Minnesota farmers who produce agricultural commodities for domestic and foreign markets shall be permitted to act separately, or jointly in cooperation with handlers, dealers and processors of such products, with the Minnesota department of agriculture, the university of Minnesota, and any other interested agencies, to promote and stimulate the use, sale and consumption of such commodities and to improve methods of production, processing and marketing thereof; it is further declared that provision for the establishment of Minnesota agricultural commodity research and promotion councils is deemed an appropriate means to accomplish such objectives. Sections 17.51 to 17.69 shall not be construed to abrogate or limit in any way the rights, powers, duties and functions of the commissioner of agriculture or any other agency of the state, but shall be supplementary thereto, and in aid and cooperation therewith.

**History:** 1969 c 1021 s 2; 1976 c 149 s 8,62 subd 2

**17.53 DEFINITIONS.**

Subdivision 1. **Scope of application.** As used in sections 17.51 to 17.69, the terms defined in this section shall have the following meanings.

Subd. 2. **Agricultural commodity.** (a) Except as provided in paragraph (b), "agricultural commodity" means any agricultural product, including, without limitation, animals and animal products, grown, raised, produced, or fed within Minnesota for use as food, feed, seed, or any industrial or chemurgic purpose.

(b) For wheat, barley, and cultivated wild rice, "agricultural commodity" means wheat, barley, and cultivated wild rice including, without limitation, wheat, barley, and cultivated wild rice grown or produced within or outside Minnesota, for use as food, feed, seed, or any industrial or chemurgic purpose.

Subd. 3. **Commercial channels.** "Commercial channels" means the processes of sale of any agricultural commodity to any commercial buyer, dealer, processor, cooperative or to any person, public or private, who resells such commodity or any product produced from such commodity for slaughter, storage, processing or distribution.

Subd. 4. [Repealed, 1996 c 310 s 1]

Subd. 5. **Cooperative.** "Cooperative" means a nonprofit association legally constituted under the laws of Minnesota or of another state of producers who have gathered together for purposes of bargaining for a price for marketing their commodity. This includes all cooperatives domiciled inside or outside of the state which buy commodities from Minnesota producers.

Subd. 6. **Council.** "Council" means a council created under the provisions of sections 17.51 to 17.69.

Subd. 7. **First handler.** "First handler" means a person, whether an owner, agent or other person, who initially places a commodity into commercial channels, or who is engaged in the processing of the commodity into food for human consumption in any form, except for potato flour or potato starch.

Subd. 8. **First purchaser.** (a) Except as provided in paragraph (b), "first purchaser" means any person that buys agricultural commodities for movement into commercial channels from the producer; or any lienholder, secured party or pledgee, public or private, or assignee of said lienholder, secured party or pledgee, who gains title to the agricultural commodity from the producer as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee thereof, regardless of when the lien, security interest or pledge was created and regardless of whether the first purchaser is domiciled within the state or without. "First purchaser" does not mean the commodity credit corporation when a commodity is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

(b) For wheat, barley, and cultivated wild rice, "first purchaser" means a person who buys, receives delivery of, or provides storage for the agricultural commodity from

a producer for movement into commercial channels; or a lienholder, secured party, or pledgee, who gains title to the agricultural commodity from the producers as the result of exercising any legal rights by the lienholder, secured party, pledgee, or assignee, regardless of when the lien, security interest, or pledge was created and regardless of whether or not the first purchaser is domiciled in the state. "First purchaser" does not mean the commodity credit corporation when the wheat, barley, or cultivated wild rice is used as collateral for a federal nonrecourse loan unless the commissioner determines otherwise.

Subd. 9. **Marketing year.** "Marketing year" means a one-year period from July 1 through June 30, or any other one-year period determined by the promotion order of a specific council.

Subd. 10. **Participating producer.** "Participating producer" means a producer of an agricultural commodity for which a promotional order has been issued and exists, who produces that commodity in the organized area and meets the minimal requirements established by the council to qualify as a producer.

Subd. 11. [Repealed, 1996 c 310 s 1]

Subd. 12. **Private processor.** "Private processor" means a privately owned commodity processor legally constituted under the laws of Minnesota for the purpose of buying or marketing the commodity and commodity products, whether the processor is domiciled within the state or without.

Subd. 13. **Producer.** (a) Except as provided in paragraph (b), "producer" means any person who owns or operates an agricultural producing or growing facility for an agricultural commodity and shares in the profits and risk of loss from such operation, and who grows, raises, feeds or produces the agricultural commodity in Minnesota during the current or preceding marketing year.

(b) For wheat, barley, and cultivated wild rice, "producer" means in addition to the meaning in paragraph (a) and for the purpose of the payment or the refund of the checkoff fee paid pursuant to sections 17.51 to 17.69 only, a person who delivers into, stores within, or makes the first sale of the agricultural commodity in Minnesota.

Subd. 14. **Producer-processor.** "Producer-processor" means a producer who processes and markets the producer's own product. For the purpose of collecting the checkoff fee, a producer-processor is the first purchaser.

Subd. 15. **Promotional order.** "Promotional order" means an order issued by the commissioner, with the advice and consent of a council and after a referendum pursuant to this chapter, which establishes a program for promotion, advertising, production, market research, and market development of the growing, processing, distributing, sale or handling of an agricultural commodity and provides for the collection of checkoff fees.

Subd. 16. **Qualified voter.** "Qualified voter" means a producer who would be subject to the payment of fees to finance the activities described in sections 17.51 to 17.69 and who shares directly in the profits and risk of loss from the agricultural operation which produces or grows the commodity.

Subd. 17. **Retailer.** "Retailer" means a person who sells directly to the consumer in small quantities or broken lots.

Subd. 18. **Sale.** "Sale" means any passing of title from the producer to the first purchaser. Sale includes any pledge, security interest or lien after harvest.

**History:** 1969 c 1021 s 3; 1976 c 149 s 9,62 subd 2; 1982 c 582 s 1; 1986 c 444; 1994 c 452 s 1-3; 1Sp2001 c 2 s 27-29

## 17.54 COUNCILS.

Subdivision 1. **Creation.** A commodity research and promotion council may be created for the producers of each agricultural commodity by filing with the commissioner a petition requesting that the producers of such commodity be subjected to the provisions of sections 17.51 to 17.69. The petition must be signed by 1,000 producers or 15 percent of the producers proposed to be covered by the promotion order, whichever

is less. At least two producers shall certify under oath that the petition has been signed only by producers of the commodity involved.

Subd. 2. **Membership.** Upon petition of the required number of producers the commissioner shall, after consultation with the various producer or commodity organizations of the particular commodity petitioning for a referendum, determine the size of the council and distribution of the council membership.

Subd. 3. **Nominating committee.** Within 30 days after the filing of the petition by the required number of producers of an agricultural commodity the commissioner shall appoint a nominating committee of at least five producers of that commodity who shall, within 60 days from the filing of the petition, nominate at least two producer candidates for each council position and certify the names of such nominees to the commissioner. Nominees shall be selected with a view to establishing a fair representation of all producers of the particular commodity throughout the area to be organized, which shall comprise the entire state unless the commissioner determines that at least 95 percent of the production of the commodity is in a lesser area, in which event the commissioner shall define the area following county lines. Whenever possible, the areas represented by council members shall correspond to state crop reporting districts as defined by the Minnesota crop and livestock reporting service.

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.

Subd. 5. **Terms.** At the first meeting of the first council for each commodity the commissioner shall determine by lot one-third of the council members whose terms shall expire June 30 in the calendar year following the year of the first election, one-third of the council members whose terms shall expire June 30 in the second calendar year and the remaining council members whose terms shall expire June 30 in the third calendar year. In the event the commissioner has designated specific areas for representation on the council, the terms of council members in any one area shall not expire in the same year. All council members elected in succeeding elections shall serve three year terms and until their successors are elected and qualified. All terms shall expire on June 30 of the last year of the term unless another date is established by the commissioner for specific councils. In the event a council member ceases to have any of the qualifications herein established, that office shall be deemed vacant. An interim vacancy on the council shall be filled by the council for the remainder of the term vacated. The successor so appointed shall be a commodity producer residing in the same crop reporting district as the former member.

Subd. 6. **Organization.** (a) The commissioner shall serve as a member of each council without vote. Each council shall elect from its own membership a chair, a vice-chair, a secretary, and other officers the council deems appropriate. An executive committee of no more than five members including the officers may also be elected. Except as provided in paragraph (b), terms of the officers shall expire on June 30 of

each year; however, they may serve until their successors have been elected but not beyond July 15.

(b) If the commissioner establishes an alternative expiration date for a specific council under subdivision 5 or 13, council members may serve on the council until their successors have been elected but not beyond 15 days after the expiration date.

**Subd. 7. Meetings; quorum.** Subject to the requirements of sections 17.51 to 17.69, a council shall meet at times and places as it may determine or upon call of the chair or of any three members or one-third of the council, whichever is greater. A majority of the voting members of a council shall constitute a quorum for the transaction of all business in carrying out the duties of the council.

**Subd. 8. Existing councils.** Any council established pursuant to any act on or before July 1, 1982 may maintain the number and regional distribution of council members in effect at that time and council members elected under the provisions of any act in effect prior to July 1, 1982 may serve out their terms according to those provisions. Any promotional order in effect prior to July 1, 1982 shall remain in effect until the promotional order would terminate under the terms of the promotional order itself, or under the provisions of the legislation authorizing that promotional order, or until the promotional order is terminated pursuant to section 17.64, whichever occurs first. No referendum need be held by the commissioner to establish any promotion order in effect prior to July 1, 1982. No referendum need be held by the commissioner to bring any promotion order into early compliance with Laws 1982, chapter 582, sections 1 to 11 when the proposed changes in the promotion order are requested by the council members and approved by the commissioner.

**Subd. 9. Potato industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to a Minnesota area potato research and promotion council established pursuant to Laws 1967, chapter 417, as amended, the state is divided into two areas. Area number one includes the counties of Kittson, Marshall, Polk, Pennington, Red Lake, Norman, Mahnomen, Clay, Wilkin, Roseau, Lake of the Woods, Beltrami, Clearwater, and Becker. Area number two includes the rest of the counties of the state. Sections 17.51 to 17.69 shall apply to any of the above areas of the state where the commissioner has determined that the area was organized prior to July 1, 1982, pursuant to section 30.464, subdivision 3, as amended through June 30, 1982.

**Subd. 10. Existing area potato councils.** For the purposes of sections 17.51 to 17.69, any area potato council established pursuant to section 30.465, prior to July 1, 1982 shall maintain the number and distribution of council members in effect at that time. Council members elected or appointed under the provisions of section 30.465 may serve out their terms. For the purposes of sections 17.51 to 17.69, the provisions of sections 30.462, 30.463, 30.467, 30.469 and 30.472 as amended through June 30, 1982, shall be considered to be the promotional order for an area potato council, and shall remain in effect as a promotional order until terminated or modified by referendum.

**Subd. 11. Membership and terms; area potato councils.** Notwithstanding subdivisions 3, 4, and 5, any area potato council which continues in existence pursuant to subdivision 10 shall include one voting member who is a private processor of potatoes and one voting member who represents potato wash plants. These two members shall be appointed by the governor for four-year terms coterminous with that of the governor.

**Subd. 12. Dairy industry promotion.** For the purpose of the administration of sections 17.51 to 17.69 as they pertain to the dairy research and promotion council established pursuant to Laws 1969, chapter 851, as amended, the vote in the name of a cooperative association of producers may be deemed the vote of all members of that cooperative association. The commissioner shall schedule and specify procedures for bloc voting by a cooperative. A ballot prepared by the council and the commissioner shall be sent by each cooperative to all member and nonmember producers with a return envelope addressed to the commissioner. The ballot shall indicate that the cooperative association intends to vote in favor of or in opposition to the question. In

the case of members the ballot shall indicate the expiration date of the ballot and state that if the ballot is not returned by that date the ballot shall be considered to be in favor of the vote of the association. The cooperative shall return the completed bloc vote ballot to the commissioner. A cooperative association shall not be required to bloc vote its producers but in that event it shall inform each producer of its decision and provide each producer with an individual referendum ballot with a return envelope addressed to the commissioner.

Each private processor of dairy products and each cooperative shall file with the commissioner a list of producers who market the bulk of their production with that private processor or cooperative. The polling procedures established by the commissioner pursuant to subdivision 4 shall ensure that dairy producers marketing the bulk of their production with a private processor have the option to vote in any referendum held pursuant to Laws 1982, chapter 586, sections 1 to 11.

**Subd. 13. Terms; dairy council.** Notwithstanding subdivision 5, the term of office of members of any council established for the producers of cows' milk or products derived from cows' milk shall be as provided in this subdivision. The term of office shall be two years, with the terms of half the council members expiring in odd-numbered years, and the terms of the remaining council members expiring in even-numbered years. All terms expire on June 30 of the last year of the term unless another date is established by the commissioner for the council.

**History:** 1969 c 1021 s 4; 1973 c 237 s 1; 1973 c 242 s 1; 1976 c 149 s 10,62 subd 2; 1982 c 424 s 130; 1982 c 582 s 2; 1986 c 318 s 1; 1986 c 444; 1990 c 417 s 1; 1997 c 187 art 3 s 4; 2000 c 285 s 1,2

**17.55** [Repealed, 1982 c 582 s 14]

#### **17.56 COUNCIL TO FORMULATE AND SUBMIT PROMOTIONAL ORDER.**

**Subdivision 1. Formulation.** Within 15 days after certification by the commissioner of its election the first council for producers of a particular commodity shall meet and formulate a promotional order establishing a program for development, promotion, advertising, research, distribution and the expansion of the sale, use and consumption of the commodity it represents and establishing a checkoff fee to be paid by producers to finance the proposed activities.

**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.

**Subd. 3. Referendum.** Following the hearings, the commissioner shall conduct a referendum on the proposed final promotional order. At least ten days' notice of the time and places of such referendum shall be published in a legal newspaper of general circulation in each county affected. Notice shall also be given to other media in each county affected. A complete copy of the promotional order shall be given to each county extension office in any county involved in the referendum to afford all producers of the commodity access to complete information about the promotional order and the referendum.

**Subd. 4. Adoption.** The promotional order shall become effective if approved by a majority of those voting.

**Subd. 5. Failed referendum.** If a referendum is conducted and a proposed promotional order is not approved, the commissioner shall not conduct another referendum on any promotional order for the same commodity until one year has

elapsed, except for the Minnesota canola council, for which six months must have elapsed.

**History:** 1969 c 1021 s 6; 1973 c 242 s 2; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 3; 1996 c 290 s 1; 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.

Subd. 2. **Budget.** Each council shall prepare and submit to the commissioner on a date the commissioner determines an estimated budget for the operation of the promotional order.

Subd. 3. **Report.** Each council shall prepare an annual report on the programs pursuant to its promotional order for the previous operating year. The report shall be mailed to each county extension office in any county involved in the promotional order.

Subd. 4. **Collection of checkoff fees and data.** The promotion order shall provide a procedure for the collection of the checkoff fee by each council to finance promotional orders and for the collection of information and data which are necessary for the proper administration of orders.

Subd. 5. **Donations.** Each council is authorized to accept donations of funds, property, services or other assistance from public or private sources for the purpose of furthering the objectives of sections 17.51 to 17.69.

Subd. 6. **Right to sue and be sued.** Each council shall have the right to investigate and prosecute in the name of the state of Minnesota any action or suit to enforce the collection or insure payment of the checkoff fees authorized by the provisions of sections 17.51 to 17.69, to sue and be sued in the name of the council to hire attorneys as necessary and to do all other things necessary to the administration and implementation of sections 17.51 to 17.69.

Subd. 7. **Financial statement.** Each council shall make available an annual financial statement of the council to any producer upon request.

**History:** 1969 c 1021 s 7; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 4; 1986 c 444; 1997 c 187 art 3 s 6

### 17.58 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Contracts.** A council, with the approval of the commissioner, may contract and cooperate with any person, firm, corporation or association, or with any local, state, federal or international agency or institution, for market development, education, publicity, promotion, research, transportation and advertising within the purposes of sections 17.51 to 17.69.

Subd. 2. **Personnel.** The council, with the approval of the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and prescribe the duties of the first chief administrative officer of any council established after July 1, 1982. The council, after consultation with the commissioner, shall appoint, employ, provide necessary bond, discharge, fix compensation for and provide duties of subsequent chief administrative officers. A council may employ other personnel as it deems necessary.

Subd. 3. **General powers.** In administering sections 17.51 to 17.69, the commissioner shall have such other powers as may be conferred by law not inconsistent with the provisions of sections 17.51 to 17.69. The commissioner is authorized to cooperate with any appropriate agency of any state for the purpose of carrying out the provisions of sections 17.51 to 17.69, and in securing uniformity of administration and enforcement.

Subd. 4. **Rules.** The organization, conduct of elections, referenda, and meetings of a council and the administration of a promotional order for any commodity shall be governed by rules promulgated by the commissioner pursuant to chapter 14.

Subd. 5. **Audits.** Each year the commissioner shall conduct a fiscal audit, and at least every three years the commissioner shall conduct a compliance audit of each council. A compliance audit is an audit to determine that a council has complied with the terms of sections 17.51 to 17.69, with all other applicable federal or state laws, and with the terms of any promotional orders established.

**History:** 1969 c 1021 s 8; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 5; 1986 c 444

#### 17.59 FEES TO DEFRAY EXPENSES.

Subdivision 1. **Checkoff fees.** For the purpose of providing funds to defray the necessary expenses incurred by the commissioner and the council in formulating, submitting to referendum, issuing, administering and enforcing a promotional order, the promotional order shall provide for checkoff fees in amounts sufficient to defray such expenses, and shall indicate the maximum checkoff rate which shall not exceed one percent of the market value of the year's production of participating producers. Any increase in the maximum checkoff provided for in the promotional order must be within the limit herein prescribed and must be approved by the majority of voting participating producers in a referendum held for that purpose after reasonable notice of such proposed increase.

Subd. 1a. **Dairy industry checkoff rate.** (a) Notwithstanding subdivision 1, the Minnesota dairy research and promotion order, or any provision to the contrary in this chapter or rules adopted under this chapter, the checkoff rate applicable to the dairy research and promotion council must be equal to the maximum credit allowed under the Dairy Promotion and Research Order, adopted under the Dairy Production Stabilization Act of 1983, United States Code, title 7, sections 4501 to 4538, for producers participating in a qualified state or regional dairy product promotion or nutrition education program. The checkoff rate provided in this subdivision is effective and must be automatically adjusted without amendment to the Minnesota dairy research and promotion order.

(b) Subdivision 1 applies for the establishment of the checkoff rate applicable to the dairy research and promotion council if:

- (1) the Dairy Production Stabilization Act of 1983 is repealed;
- (2) the Dairy Promotion and Research Order is suspended or terminated, in which case subdivision 1 applies only during the period of suspension or termination; or
- (3) the federal credit for participation in a qualified state or regional dairy product or nutrition education program is eliminated.

Subd. 2. **Payment.** The commissioner shall establish the procedure for the timely payment of the checkoff fee by the producer to the council. The procedure shall be clearly outlined in the proposed promotional order. The procedure must be fair, reasonable and the checkoff fee shall be deducted by the first purchaser at the time of sale. The first purchaser shall submit to the council any checkoff fees so deducted once every 30 days in accordance with the commissioner's rules.

Subd. 3. **Financing referendums.** The commissioner shall require producers petitioning for a promotional order to deposit in advance an amount necessary to defray the expense of electing the first council, formulating an order, submitting it to referendum and issuing the order. Funds received for that purpose shall be deposited in the commodity research and promotion account. If the order is issued, the producers shall be reimbursed when funds are available from assessments. If the order is not issued the commissioner shall refund only that portion of the deposit remaining after payment of expenses incurred on a pro rata basis.

Subd. 4. **Deposit and use of checkoff fees.** Checkoff fees collected pursuant to sections 17.51 to 17.69 shall be deposited in a federally insured depository institution and shall be disbursed by the officers and employees approved by the council for the necessary expenses incurred in the administration of sections 17.51 to 17.69. Checkoff fees collected shall be used exclusively for the purpose collected and not to support or oppose a political party or a candidate for nomination or election to a public office.

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 agricultural fund. Money in the account, including interest, is appropriated to the commissioner to carry out the duties of sections 17.51 to 17.69.

**History:** 1969 c 1021 s 9; 1976 c 149 s 62 subd 2; 1981 c 41 s 1-3; 1981 c 356 s 256; 1982 c 582 s 6-8; 1987 c 384 art 2 s 5; 1989 c 350 art 5 s 1; 1993 c 172 s 21; 1999 c 231 s 31

#### 17.60 COMPENSATION AND EXPENSES.

Each member of a council, except the commissioner, shall be entitled to a reasonable per diem, not exceeding the same rate of compensation per day as is authorized for payment to members of advisory councils and committees pursuant to section 15.059, subdivision 3, while engaged in the performance of duties, and actual expenses incurred while attending council meetings or executive committee meetings. Payments to council members for other official business of the council require approval by the council.

**History:** 1969 c 1021 s 10; 1976 c 149 s 62 subd 2; 1982 c 582 s 9; 1986 c 444

17.601 [Repealed, 1982 c 582 s 14]

#### 17.61 LEGAL COUNSEL.

The council may appoint an attorney who shall act for the council and the commissioner when required. The council shall fix the compensation and terms of employment of such attorney. The provisions of chapter 8 shall not apply to this attorney.

**History:** 1969 c 1021 s 11; 1976 c 149 s 62 subd 2

#### 17.62 RECORDS OF THE COUNCIL.

All of the records of a council, except as otherwise provided in this section, shall be open to the public and shall be available for inspection by any person for any lawful purpose, provided, however, that the council shall be empowered to make reasonable rules concerning the inspection of the records, the time or place of inspection, or the manner in which the information shall be made available. Financial information pertaining to individual participating producers shall not be open to the public.

**History:** 1969 c 1021 s 12; 1976 c 149 s 62 subd 2; 1982 c 582 s 10

#### 17.63 REFUND OF FEES.

(a) Any producer, except a producer of potatoes in area number one, as listed in section 17.54, subdivision 9, a producer of wheat or barley, or a producer of cultivated wild rice, may, by the use of forms to be provided by the commissioner and upon presentation of such proof as the commissioner requires, have the checkoff fee paid pursuant to sections 17.51 to 17.69 fully or partially refunded, provided the checkoff fee was remitted on a timely basis. The request for refund must be received in the office of the commissioner within the time specified in the promotion order following the payment of the checkoff fee. In no event shall these requests for refund be accepted more often than 12 times per year. Refund shall be made by the commissioner and council within 30 days of the request for refund provided that the checkoff fee sought to be refunded has been received. Rules governing the refund of checkoff fees for all commodities shall be formulated by the commissioner, shall be fully outlined in the promotion order, and shall be available for the information of all producers concerned with the referendum.

(b) The commissioner must allow partial refund requests from corn producers who have checked off and must allow for assignment of payment to the Minnesota corn

growers association if the Minnesota corn research and promotion council requests such action by the commissioner.

(c) The Minnesota corn research and promotion council shall not elect to impose membership on any individual producer not requesting a partial refund or assignment of payment to the association.

(d) For any wheat, barley, or cultivated wild rice for which the checkoff fee must be paid pursuant to sections 17.51 to 17.69 and for which a checkoff fee or fee that serves a comparable purpose in a jurisdiction outside Minnesota had been previously paid for the same wheat, barley, or cultivated wild rice, the producer of the wheat, barley, or cultivated wild rice is exempt from payment of the checkoff fee. The commissioner, in consultation with the wheat research and promotion council, barley research and promotion council, and cultivated wild rice research and promotion council, shall determine jurisdictions outside of Minnesota which collect a checkoff fee or fee that serves a comparable purpose. In order to qualify for the exemption, the producer must demonstrate to the first purchaser that a checkoff fee or fee has been paid to such a jurisdiction.

**History:** 1969 c 1021 s 13; 1976 c 149 s 62 subd 2; 1982 c 582 s 11; 1986 c 444; 1990 c 477 s 1; 1991 c 191 s 1; 1992 c 513 art 2 s 14; 1994 c 452 s 4; 1Sp2001 c 2 s 30

#### 17.64 TERMINATION OF THE ORDER.

Subdivision 1. **By council.** The council after consultation with the commissioner and by a majority vote shall suspend or terminate a promotional order whenever it finds, after a public hearing, that an order is contrary to or does not effectuate the purposes or provisions of sections 17.51 to 17.69, provided that the suspension or termination shall not become effective until the expiration of the current marketing year.

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:** 1969 c 1021 s 14; 1976 c 149 s 62 subd 2; 1982 c 424 s 130; 1982 c 582 s 12; 1986 c 444; 1997 c 187 art 3 s 7

17.65 [Repealed, 1982 c 582 s 14]

#### 17.66 ASSOCIATION OF PRODUCERS NOT ILLEGAL.

No activity, including meetings, undertaken in pursuance of the provisions of sections 17.51 to 17.69 and intended to benefit the producers, handlers and processors of such agricultural commodity shall be deemed or considered illegal or in restraint of trade.

**History:** 1969 c 1021 s 16

#### 17.67 PENALTY FOR VIOLATIONS.

Any person who violates any provision of sections 17.51 to 17.69 or any rule of the commissioner promulgated pursuant to sections 17.51 to 17.69 is guilty of a misdemeanor. Any first handler who fails to make collections or to file a return or to pay any assessment within the time required by sections 17.51 to 17.69, or who files a falsified return, shall be liable to the council for the amount due, plus a penalty of six percent of the amount due, plus one percent of the amount for each month of delay. If satisfied that the delay was excusable, the council may return all or any part of the penalty.

Penalties shall be paid to the council and disposed of as provided with respect to other money collected under sections 17.51 to 17.69.

**History:** 1969 c 1021 s 17; 1976 c 149 s 62 subd 2; 1982 c 582 s 13

**17.68** [Repealed, 1982 c 582 s 14]

**17.69 NONLIABILITY OF STATE.**

No liability shall be imposed upon the state of Minnesota for any acts or omissions of the commissioner or any council established pursuant to sections 17.51 to 17.69.

**History:** 1969 c 1021 s 19; 1976 c 149 s 62 subd 2

**AGRICULTURAL MARKETING  
AND BARGAINING**

**17.691 CITATION.**

Sections 17.691 to 17.701 shall be known and may be cited as the "Agricultural Marketing and Bargaining Act of 1973."

**History:** 1973 c 736 s 1

**17.692 DECLARATION OF POLICY.**

Agricultural products are produced in Minnesota by many individual farmers, ranchers, and handlers scattered throughout the state. The efficient production and marketing of agricultural products by farmers, ranchers, and handlers is of vital concern to their welfare and to the general economy of Minnesota. The marketing and bargaining position of individual farmers, ranchers, and handlers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Interference with this right is contrary to the public interest, adversely affects the free and orderly flow of goods in interstate and foreign commerce, and affects the welfare of the people of Minnesota. It is, therefore, declared to be the policy of this state and the purpose of this chapter to establish standards of fair practices required of handlers and producers in their dealings in agricultural products and to encourage settlement of disputes between handlers and producers of agricultural products.

**History:** 1973 c 736 s 2; 1998 c 373 s 2

**17.693 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 17.691 to 17.702, the terms defined in this section have the meanings given them.

Subd. 2. **Association; association of producers.** "Association" or "association of producers" means an association of producers of agricultural commodities engaged in marketing, bargaining, shipping, or processing an agricultural commodity into agricultural products on behalf of its members who are producers of the agricultural commodity, which has been accredited by the commissioner.

Subd. 3. [Repealed, 1996 c 310 s 1]

Subd. 4. **Producer.** "Producer" means any person, who in any one calendar year within the previous two calendar years, produces or causes to be produced any agricultural commodity in quantity beyond the person's own family use, and who is able to transfer, during the calendar year, to a handler or an association a merchantable title to the agricultural commodity or provide management, labor, machinery, facilities, or any other production input, with the assumption of risk, for the production of the agricultural commodity under a written contract.

Subd. 5. **Agricultural commodity.** "Agricultural commodity" includes all agricultural goods produced under contract for marketing as defined by the commissioner of agriculture. It does not include any commodity sold by a producer to another producer for the other's own exclusive use and not for resale. The kinds, types and subtypes of

products to be classed together as an agricultural commodity for the purposes of sections 17.691 to 17.701 shall be determined by the commissioner on the basis of common usage and practice.

Subd. 6. **Handler.** "Handler" means a person, other than an association, engaged in the business or practice of acquiring agricultural commodities from producers or associations for processing or sale; grading, packaging, handling, storing, or processing agricultural commodities received from producers or associations; contracting or negotiating contracts or other arrangements with or on behalf of producers or associations with respect to the production of any agricultural commodity; or acting as an agent or broker for a handler in the performance of any function or act specified above. It does not include a producer who sells at a retail establishment which the producer owns and operates or who sells at a produce market, agricultural commodities produced by the producer and agricultural commodities produced by another producer subject to value limitation established by the commissioner.

Subd. 7. [Repealed, 1996 c 310 s 1]

Subd. 8. **Marketing year.** "Marketing year" shall mean, generally, any time between the second day of February of the previous calendar year and the first day of February of the subsequent year, unless the commissioner shall determine an alternative time period for a specific agricultural commodity to be designated as its marketing year.

**History:** 1973 c 736 s 3; 1986 c 444; 1998 c 373 s 3-5; 2001 c 161 s 57

#### 17.694 ACCREDITATION.

Subdivision 1. **Procedures.** Any association accredited under this section may engage in bargaining as provided for under sections 17.691 to 17.702.

(1) An association desiring accreditation shall file with the commissioner in the form required by the commissioner. The request shall contain properly certified evidence that the association meets the standards for accreditation and shall be accompanied by a report of the names and addresses of member producers, the name of each handler to whom the member producer delivered or contracted to deliver the agricultural commodity during the previous two calendar years. A fee to cover the costs of the commissioner in processing the request shall be established pursuant to chapter 14, and paid by the association when the request is filed.

(2) The commissioner shall notify all handlers named in the request for accreditation of an association of producers. The notice must be sent to the handlers named in the request by first class mail within ten days of the commissioner receiving the request for accreditation. The commissioner shall maintain records indicating the date of mailing.

(3) The commissioner may require all handlers of an agricultural commodity produced in a bargaining unit area as individuals to file within 30 days following a request, a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity who have delivered the agricultural commodity to the handler during the two calendar years preceding the filing of the report.

(4) Data submitted to the commissioner by producer associations under clause (1) and by commodity handlers under clause (3) are private data on individuals or nonpublic data, as defined in section 13.02, subdivision 9 or 12.

Subd. 2. **Bargaining unit determination.** In determination of accreditation, the commissioner shall determine the appropriate bargaining unit by plant, but may define the bargaining unit by processor or company if there is a history of identical contracts offered to producers on a processor or companywide basis. This determination shall be the unit area for the bargaining provisions of sections 17.691 to 17.702 as is applicable to associations and handlers. In making a determination, the commissioner shall define as appropriate the bargaining unit area in terms of the agricultural commodity produced, the definition of the agricultural commodity, geographic area covered, and number of producers included as is consistent with the following criteria:

- (1) the community of interest of the producers included;
- (2) the potential serious conflicts of interests among members of the proposed unit;
- (3) the effect of exclusions on the capacity of the association to effectively bargain for the bargaining unit as defined;
- (4) the kinds, types, and subtypes of products to be classed together as agricultural commodity for which the bargaining unit is proposed;
- (5) whether the producers eligible for membership in the proposed bargaining unit meet the definition of "producer" for the agricultural commodity involved;
- (6) the wishes of the producers; and
- (7) the pattern of past marketing of the commodity.

Subd. 3. **Standards.** An association shall be accredited only if it complies with the following:

(a) The association meets the requirements of the Capper-Volstead Act, United States Code, title 7, section 291-2.

(b) The association has submitted a copy of its bylaws which provide that: Each member of the association shall have one vote in all votes of the membership of the association; that officers or directors shall be elected by a majority of the members voting or by delegates representing a majority of the membership; and that all elections shall be by secret ballot.

(c) The association would have marketing and bargaining contracts for the current or next marketing year with more than 50 percent of the producers of an agricultural commodity who are in the bargaining unit area. An association whose main purpose is bargaining but which processes a surplus into a form which is not the subject of bargaining is not a processing cooperative. The contracts with members shall specify the agricultural commodity and that the members have appointed the association as their exclusive agent in negotiations with handlers for prices and other terms of trade with respect to the sale and marketing of the agricultural commodity and obligate the members of the association to dispose of their production or holdings of the agricultural commodity through or at the direction of the association.

Subd. 4. **Accreditation determination.** Within 60 days of the filing date of the request for accreditation by an association, the commissioner shall determine whether the association shall be accredited. If the commissioner determines that insufficient evidence was filed by the association, the commissioner may permit the association to file an amended request for accreditation within 30 days following the determination and notification of the association. The commissioner shall then determine, within 30 days of the filing of the amended request, whether the association shall be accredited. An association which is denied accreditation after filing of an amended request may not file another request for accreditation for a period of one year.

Subd. 4a. **Hearing; appeal.** Within 30 days of a decision by the commissioner denying accreditation to an association, the association may request a hearing before the commissioner. The commissioner shall then conduct a hearing to determine whether the association shall be accredited. This hearing shall be governed by the provisions of sections 14.57 and 14.60. If the commissioner, after this hearing has been held, determines that the association should not be accredited, the association may appeal this decision in accordance with sections 14.63 and 14.69. Only an association denied certification after such hearing may appeal under this chapter.

Subd. 5. **Date of accreditation.** Accreditation of the association by the commissioner shall be effective upon receipt by the association of the notice of accreditation from the commissioner.

Subd. 6. **Revocation.** The commissioner shall consider revocation of accreditation upon any of the following conditions:

(a) Upon receipt of a request from an accredited association for its own disaccreditation.

(b) Upon receipt of a petition requesting that the accredited association be discredited and bearing the signatures of at least ten percent of the producers of an accredited association in the bargaining unit. Within ten days following the receipt of a petition bearing the signatures of at least ten percent of the producers of an accredited association in a bargaining unit, the commissioner shall order a referendum, to take place at least seven days but not more than 20 days after the order, among the members of the accredited association and if in the referendum 50 percent of association members approve, the association accreditation shall be revoked by the commissioner. The commissioner shall have representatives of the department present at the referendum vote to conduct the referendum and take action to prevent unfair practices by the association of producers or handlers to obstruct or influence voting. Tabulation of the vote is the responsibility of the department. The department may adopt rules governing any referendum for repeal of accreditation. A request for a revocation of accreditation may occur only during the first three months of a marketing year.

**Subd. 7. Representation.** The accredited association shall represent all member producers who are in the bargaining unit area and it shall act as exclusive sales agents for the members of the accredited association in the bargaining unit area in negotiations with handlers. The association may not assess, bargain for, or claim to represent those producers who choose not to be represented by the association or choose not to have a bargaining committee bargain for them.

**History:** 1973 c 736 s 4; 1975 c 88 s 1,2; 1982 c 424 s 130; 1986 c 444; 1998 c 373 s 6-10; 2001 c 161 s 57

#### 17.695 MARKETING AND BARGAINING COMMITTEE.

**Subdivision 1. Establishment.** After accreditation of the association, the association shall establish and authorize a marketing and bargaining committee to negotiate, as the association's exclusive agent, with handlers for the sale and marketing of the agricultural commodity for which the association was accredited.

**Subd. 2. Membership.** This committee shall be comprised of members of the association elected by the association in a secret ballot election, except that the association may contract with legal counsel who shall, at the discretion of the association, be eligible for membership on the committee.

**Subd. 3. Eligibility.** The production of the agricultural commodity shall comprise a significant portion of the total producing operation of each committee member.

**Subd. 4. Ineligible members.** Members who have any quantity contracted with a producer owned and controlled processing cooperative are not eligible to serve on a marketing and bargaining committee for such a commodity.

**History:** 1973 c 736 s 5

#### 17.696 UNFAIR PRACTICES OF HANDLERS AND ASSOCIATIONS.

**Subdivision 1. Unfair practices by handler.** Producers of agricultural commodities are free to join together voluntarily in associations as authorized by law without interference by handlers. A handler shall not engage in any of the following practices, defined as unfair practices:

(a) To coerce a producer in the exercise of the right to join and belong to or to refrain from joining or belonging to an association or to refuse to deal with a producer because of the exercise of the right to join and belong to an association.

(b) To discriminate against a producer with respect to price, quantity, quality or other terms of purchase, acquisition or other handling of agricultural products because of membership in or contract with an association.

(c) To coerce or intimidate a producer to breach, cancel or terminate a membership agreement or marketing contract with an association or a contract with a handler.

(d) To pay or loan money, give anything of value or offer any other inducement or reward to a producer for refusing or ceasing to belong to an association.

(e) To make or circulate unsubstantiated reports about the finances, management or activities of associations or other handlers.

(f) To conspire, combine, agree or arrange with any other person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.701.

(g) To refuse to bargain with an association with whom the handler has had prior dealings or with an association whose producers in the bargaining units have had dealings with the handler prior to July 1, 1973.

Subd. 2. **Unfair practices by association.** An association shall not engage nor permit an employee or agent to engage in the following practices, defined as unfair practices:

(1) coerce a producer in the exercise of the right to join and belong to or to refrain from joining or belonging to an association or refuse to deal with a producer because of the exercise of the right to join and belong to or refrain from joining an association;

(2) enter into a contract which discriminates against a producer represented by that association;

(3) act in a manner contrary to the bylaws of the association;

(4) coerce or intimidate a handler to breach, cancel, or terminate an agreement or marketing contract with an association or a contract with a producer;

(5) make or circulate unsubstantiated reports about the finances, management, or activities of other associations or handlers; or

(6) conspire, combine, agree, or arrange with another person to do or aid or abet the doing of any practice which is in violation of sections 17.691 to 17.702.

**History:** 1973 c 736 s 6; 1986 c 444; 1998 c 373 s 11; 2001 c 161 s 57

### 17.697 INFORMATIONAL EXCHANGES; DISPUTE RESOLUTION.

Subdivision 1. **Definition.** As used in sections 17.691 to 17.702, "informational exchange" means the mutual obligation of a handler and an association or their designated representatives to meet at a mutually agreed upon time in conformance with sections 17.691 to 17.702 and confer and provide information about their expectations for the upcoming marketing year. The informational exchange must be a serious, fair, and reasonable attempt to reach agreement by acknowledging or refuting with reason points brought up by either party with respect to the terms and conditions of a contract relative to trading between handlers and producers of the agricultural commodity. The topics may include, but are not limited to, the following:

(1) prices and terms of sale;

(2) quality specifications;

(3) quantity to be marketed by acreage or weight;

(4) transactions involving products and services utilized by one party and provided by the other party; and

(5) checkoff procedures pursuant to assessments levied by the association whereby a portion of the producers' annual production payments under a contract are collected by handlers from producers within the bargaining unit and paid to the association on some other arrangement.

Subd. 2. **First two meetings.** The handler and an association of producers or their designated representatives shall meet at least two times for informational exchanges prior to 60 days before the beginning of the marketing year. Neither party, however, is required to disclose proprietary business or financial records or information. Both parties shall inform the department in writing of the time of both informational exchanges at least ten days prior to the first meeting. Verification of completion of training in negotiation, as described in section 17.702, must be included with the notification sent to the commissioner.

Subd. 3. **Continuing negotiations.** After the conclusion of the second informational exchange and no agreement is reached, negotiations may continue between the parties

at mutually agreed upon times. Mediation may be requested in accordance with this section by any party.

**Subd. 4. Agreement not required.** The parties may reach agreement for a contract during the informational exchanges. However, the obligation to meet for informational exchanges does not require either party to agree to a proposal, to make a concession, or to enter into a contract.

**Subd. 5. If no agreement is reached.** If an agreement is not reached during the informational exchanges, negotiations must be considered to continue and either party may request mediation as provided in this section. Negotiations may continue without mediation and an agreement may be reached without the use of mediation. Negotiations must be a serious, fair, and reasonable attempt to reach agreement by acknowledging or refuting with reason points brought up by either party with respect to the terms and conditions of a contract relative to trading between handlers and producers of the agricultural commodity. A request for mediation requires both parties to the negotiation to complete the mediation process described in this section, but does not obligate either party to agree to a proposal, to make a concession, or to enter into a contract. However, the parties are required to perform according to any agreement reached at the conclusion of the mediation process.

**Subd. 6. Mediation request.** An association of producers or a handler may request mediation only within ten days after the second informational exchange meeting. Written notice requesting mediation must be mailed to the commissioner and post-marked within ten days of the second informational exchange, with a copy to the nonrequesting party, and the notice for mediation must contain the last offer made by the party requesting mediation. Within three days after receiving the request for mediation, the commissioner shall require the nonrequesting party to provide reasons for rejecting the last offer made by the requesting party and revisions to the last offer that might be required to reach an agreement. The nonrequesting party will have five days from the date of the postmark to provide a response to the commissioner and also provide a copy of the response to the requesting party. The commissioner shall request the American Arbitration Association or a comparable dispute resolution organization to make available a list of at least three qualified mediators, but not more than six, for the parties to select one individual to mediate the dispute. Qualified mediators are those who have met the training requirements of Rule 114.12 of the Minnesota General Rules of Practice for the District Courts, are familiar with sections 17.691 to 17.702, and have served as mediator in at least three other commercial disputes or have commensurate experience. The handler and the association may agree on a mediator or, failing agreement, the commissioner may select the mediator from the list provided by allowing each party to strike one mediator and choosing one from the remaining names on the list.

**Subd. 7. Mediation rules.** The American Arbitration Association mediation rules must be followed during the mediation process. If there is a conflict between those rules and this statute, the statute prevails. Any information shared in the mediation process or offers to settle are to be considered confidential and must not be used against either party in any other proceeding, court action, or dispute resolution process unless otherwise discoverable from outside of the mediation process.

**Subd. 8. Duration of mediation.** The mediation process must conclude not more than 20 days after the mediator has been selected and notified by the department. If the mediator feels that additional time may result in an agreement between the parties, the mediator may extend the mediation process for an additional five days. However, the mediation must conclude, under any circumstance, no later than 15 days prior to the start of the marketing year, unless the parties agree to a different date, but no later than the first day of the marketing year.

**Subd. 9. Mediation costs.** All costs for retaining a mediator and proceedings during the mediation process must be shared equally by both parties.

Subd. 10. **Subpoenas.** The commissioner has the subpoena authority to compel participation in the mediation process for either party after the informational exchanges.

Subd. 11. **Enforceability.** Any final written agreement reached during the mediation procedure is enforceable under the law and in the courts of this state. The parties are not required to reach an agreement, but they are required to proceed through the mediation process as outlined in this section.

Subd. 12. **Binding arbitration.** If an agreement is not reached during the mediation process, and upon written consent by both parties, binding arbitration as set forth in this chapter may be used to create a contract or resolve the dispute.

Subd. 13. **Notification.** The parties shall each notify the commissioner after the end of the mediation period, if an agreement has not been reached, of their desire to use binding arbitration to settle the dispute. An arbitrator must be selected as provided in subdivision 18. The notification must include its final offer in which it shall identify all matters as to which the parties agree with contractual language setting forth these agreements and all matters as to which the parties do not agree with contractual language setting forth the party's final offer for resolution of those disagreements.

Subd. 14. **Process.** For all matters submitted to arbitration, the arbitrator may choose between the final offers of the parties or fashion a different solution between, but not exceeding, the final offers of the parties. If the parties reach an agreement on the matters under arbitration before the arbitrator issues a decision, they may submit a joint final offer that the arbitrator shall accept and render as the decision. The arbitrator may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of records. A person who fails to obey the subpoena of an arbitrator may be punished for contempt of court on application by the arbitrator to the district court for the county in which the failure occurs. The arbitrator may use other information in addition to that provided by or elicited from the parties. The arbitrator shall issue a decision within ten days of the commencement of arbitration and that decision is binding on the parties. If the parties reach an agreement on the matters in the arbitrator's decision prior to signing the contract, they may submit a joint final offer to the arbitrator. The arbitrator shall rescind the previous decision and accept and render the joint final offer as the decision.

Subd. 15. **Contract.** Within five days after the arbitrator's decision, the handler shall prepare a contract that must include all terms agreed to by the parties in bargaining or awarded in arbitration and shall present the contract to the association of producers who must accept the terms of the contract within five days of its presentation.

Subd. 16. **List of arbitrators.** The commissioner, in consultation with the American Arbitration Association or comparable dispute resolution organization, shall establish a list of arbitrators who are qualified by education, training, and experience to carry out the responsibilities of an arbitrator under this section.

Subd. 17. **Costs of arbitration.** All costs of arbitration must be borne equally by the parties. The arbitrator shall submit a statement of charges and expenses to the parties and to the commissioner. Each party shall pay the arbitrator directly.

Subd. 18. **Selection of arbitrator.** The arbitrator must be selected by the commissioner. The commissioner shall submit a list composed of the names of three persons knowledgeable in the marketing of the agricultural commodity from which the arbitrator must be chosen. Qualified arbitrators are those who have met the training requirements of Rule 114.12 of the Minnesota General Rules of Practice for the District Courts, are familiar with sections 17.691 to 17.702, and have served as an arbitrator in at least three other commercial disputes or have commensurate experience. The selection must be made by the association representative and the handler representative, each striking one name from the list. If two names remain, the commissioner shall decide which one is the arbitrator.

**History:** 1973 c 736 s 7; 1975 c 88 s 3; 1986 c 444; 1998 c 373 s 12; 2001 c 161 s 57

**17.698 FACTORS TO BE CONSIDERED IN MEDIATION AND ARBITRATION.**

All decisions of mediation and arbitration which result from section 17.697 must consider the following factors:

- (1) prices or projected prices for the agricultural commodity paid by the competing handlers in the market area or competing market areas worldwide;
- (2) amount of the commodity produced or projections of production in the production area or competing marketing areas worldwide;
- (3) relationship between the quantity produced and the quantity handled by the handler;
- (4) the producers cost of production including the cost which would be involved in paying farm labor a fair wage rate and providing them with adequate housing;
- (5) the efficiency of farm operations of similar size and the projected prices of alternative agricultural commodities grown in the market area;
- (6) the cost of production of similar sized handlers;
- (7) the average consumer prices for goods and services, commonly known as the cost of living;
- (8) the component of the agricultural commodity that makes up the producer's income;
- (9) the impact of the award on the competitive position of the handler in the marketing area or competing areas worldwide;
- (10) the impact of the award on the competitive position of the agricultural commodity in relationship to competing commodities;
- (11) a fair return on investment;
- (12) kind, quality, or grade of the commodity involved;
- (13) stipulation of the parties; and
- (14) other factors which are normally or traditionally taken into consideration in determining prices, quality, quantity, and the costs of other services involved.

**History:** 1973 c 736 s 8; 1998 c 373 s 13

**17.699** [Repealed, 1998 c 373 s 20]

**17.70 VIOLATION PROCEDURE.**

**Subdivision 1. Commissioner's duties.** For the purpose of sections 17.691 to 17.702, the commissioner may receive complaints with respect to violations or threatened violations. The commissioner may make all necessary investigations, examinations or inspections of any violation or threatened violation specified in the sworn complaint filed with the commissioner. If, upon such investigation, the commissioner considers that there is reasonable cause to believe that the person charged has committed a practice in violation of sections 17.691 to 17.702, the commissioner shall issue and cause to be served a complaint upon the person. The complaint shall summon the person to a hearing before the commissioner at the time and place fixed.

**Subd. 2. Findings of fact; order.** If the commissioner determines that the person complained of has committed a practice in violation of sections 17.691 to 17.702, the commissioner shall state findings of fact and shall issue and cause to be served on the person an order to cease the violation and shall order further affirmative action as will effectuate the policies of sections 17.691 to 17.702.

**Subd. 3. Dismissal.** If the commissioner is of the opinion that the person complained of has not committed a practice in violation of sections 17.691 to 17.702, the commissioner shall make findings of fact and issue an order dismissing the complaint.

**Subd. 4.** Until the record in a case has been filed in a court the commissioner may, at any time upon reasonable notice and in such manner as the commissioner deems proper, modify or set aside, in whole or in part, any finding or order made or issued, with jurisdiction for such a change specified in additional findings of fact.

Subd. 5. **Enforcement.** The commissioner may request the attorney general of the state of Minnesota to seek the appropriate temporary relief or restraining order of injunction in district court to insure the enforcement of the commissioner's findings.

**History:** 1973 c 736 s 10; 1986 c 444; 1998 c 373 s 14-16; 2001 c 161 s 57

#### **17.701 RULES.**

The commissioner may promulgate rules necessary for the administration of sections 17.691 to 17.702 in accordance with sections 17.691 to 17.702 and chapter 14.

**History:** 1973 c 736 s 11; 1982 c 424 s 130; 1998 c 373 s 17; 2001 c 161 s 57

#### **17.702 NEGOTIATION CLASSES REQUIRED.**

Upon accreditation of an association of producers, at least two members of bargaining teams from both the association and the handler named in the application must attend instructional classes covering negotiation, mediation, arbitration, and facilitation approved by the commissioner. The instruction period must be at least three hours. The informational exchanges may not commence unless certificates of completion are on file with the commissioner. After an association has been accredited for a period exceeding one year, the association and the handler must have at least one member of their bargaining team in informational exchanges or negotiations complete training in the previous year of at least three hours in negotiation, mediation, arbitration, and facilitation, as described in this section, before the dates for informational exchanges are determined. Verification of training must accompany the notification to the commissioner that informational exchanges are scheduled.

**History:** 1998 c 373 s 18

**17.703** [Repealed, 2001 c 161 s 58]

### **DISCLOSURE OF PRODUCTION CONTRACT TERMS**

#### **17.710 AGRICULTURAL PRODUCTION CONTRACTS.**

A production contract entered into, renewed, or amended on or after July 1, 1999, between an agricultural producer and a processor of agricultural products must not contain provisions that prohibit the producer from disclosing terms, conditions, and prices contained in the contract. Any provision prohibiting disclosure by the producer is void.

**History:** 1999 c 231 s 32

**17.711** [Repealed, 1989 c 326 art 6 s 34]

**17.712** [Repealed, 1989 c 326 art 6 s 34]

**17.713** [Repealed, 1989 c 326 art 6 s 34]

**17.714** [Repealed, 1989 c 326 art 6 s 34]

**17.715** [Repealed, 1989 c 326 art 6 s 34]

**17.7155** [Repealed, 1989 c 326 art 6 s 34]

**17.716** [Repealed, 1989 c 326 art 6 s 34]

**17.717** [Repealed, 1989 c 326 art 6 s 34]

**17.718** [Repealed, 1989 c 326 art 6 s 34]

**17.719** [Repealed, 1989 c 326 art 6 s 34]

**17.72** [Repealed, 1989 c 326 art 6 s 34]

- 17.721 [Repealed, 1989 c 326 art 6 s 34]
- 17.722 [Repealed, 1989 c 326 art 6 s 34]
- 17.723 [Repealed, 1989 c 326 art 6 s 34]
- 17.724 [Repealed, 1975 c 227 s 10]
- 17.7241 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7242 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7243 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7244 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7245 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.7246 [Repealed, 1988 c 688 art 7 s 8; 1989 c 326 art 6 s 34]
- 17.725 [Repealed, 1989 c 326 art 6 s 34]
- 17.726 [Repealed, 1989 c 326 art 6 s 34]
- 17.727 [Repealed, 1989 c 326 art 6 s 34]
- 17.728 [Repealed, 1989 c 326 art 6 s 34]
- 17.7285 [Repealed, 1989 c 326 art 6 s 34]
- 17.729 [Repealed, 1989 c 326 art 6 s 34]
- 17.73 [Repealed, 1989 c 326 art 6 s 34]
- 17.74 [Repealed, 1974 c 167 s 1]
- 17.75 [Repealed, 1974 c 167 s 1]
- 17.76 [Repealed, 2001 c 161 s 58; 1Sp2001 c 2 s 162]

#### AGRICULTURAL LAND PRESERVATION AND CONSERVATION

#### 17.80 STATE AGRICULTURAL LAND PRESERVATION AND CONSERVATION POLICY.

Subdivision 1. **Policy.** It is the policy of the state to preserve agricultural land and conserve its long-term use for the production of food and other agricultural products by:

- (a) Protection of agricultural land and certain parcels of open space land from conversion to other uses;
- (b) Conservation and enhancement of soil and water resources to ensure their long-term quality and productivity;
- (c) Encouragement of planned growth and development of urban and rural areas to ensure the most effective use of agricultural land, resources and capital; and
- (d) Fostering of ownership and operation of agricultural land by resident farmers.

Subd. 2. **Methods.** The legislature finds that the policy in subdivision 1 will be best met by:

- (a) Defining and locating lands well suited for the production of agricultural and forest products, and the use of that information as part of any local planning and zoning decision;

(b) Providing local units of government with coordinating guidelines, tools and incentives to prevent the unplanned and unscheduled conversion of agricultural and open space land to other uses;

(c) Providing relief from escalating property taxes and special assessments and protection of normal farm operations in agricultural areas subject to development pressures;

(d) Development of state policy to increase implementation of soil and water conservation by farmers;

(e) Assuring that state agencies act to maximize the preservation and conservation of agricultural land and minimize the disruption of agricultural production, in accordance with local social, economic and environmental considerations of the agricultural community;

(f) Assuring that public agencies employ and promote the use of management procedures which maintain or enhance the productivity of lands well suited to the production of food and other agricultural products;

(g) Guiding the orderly development and maintenance of transportation systems in rural Minnesota while preserving agricultural land to the greatest possible extent;

(h) Guiding the orderly construction and development of energy generation and transmission systems and enhancing the development of alternative energy to meet the needs of rural and urban communities and preserve agricultural land to the greatest possible extent by reducing energy costs and minimizing the use of agricultural land for energy production facilities; and

(i) Guiding the orderly development of solid and hazardous waste management sites to meet the needs and safety of rural and urban communities and preserve agricultural land to the greatest possible extent by minimizing the use of agricultural land for waste management sites.

*History: 1982 c 512 s 1*

### 17.81 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 17.80 to 17.84, the terms defined in this section have the meanings given them.

Subd. 2. **Action which adversely affects.** "Action which adversely affects" means any of the following actions taken in respect to agricultural land which have or would have the effect of substantially restricting the agricultural use of the land: (1) acquisition for a nonagricultural use except acquisition for any unit of the outdoor recreation system described in section 86A.05, other than a trail described in subdivision 4 of that section; (2) granting of a permit, license, franchise or other official authorization for nonagricultural use; (3) lease of state-owned land for nonagricultural use except for mineral exploration or mining; or (4) granting or loaning of state funds for purposes which are not consistent with agricultural use.

Subd. 3. **Agricultural land.** "Agricultural land" means land which is in agricultural use, and which has been identified as agricultural land by a local unit of government pursuant to sections 394.21 to 394.37, 462.351 to 462.364, 366.10 to 366.19 or 473H.04, or which is composed of predominantly class I, II, III, or IV soils as identified in the land capability classification system of the United States Department of Agriculture Soil Conservation Service and the county soil survey, if completed.

Subd. 4. **Agricultural use.** "Agricultural use" means use of land for the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock which is under sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees, and apiary products. Wetlands, pasture and woodlands accompanying land in agricultural use shall be considered to be in agricultural use.

Subd. 5. **Agency.** "Agency" means a department identified in section 15.01, and any other agency of the state whose actions are by virtue of other law governed by the provisions of sections 17.80 to 17.84.

Subd. 6. [Repealed, 1996 c 310 s 1]

**History:** 1982 c 512 s 2

#### 17.82 PROHIBITED AGENCY ACTION.

Any agency action which the agency determines will adversely affect ten acres or more of agricultural land shall be referred to the commissioner to be reviewed and acted upon as provided in section 17.84. No agency shall take any action which adversely affects ten acres or more of agricultural land without first attempting to find alternative methods or locations for the action or otherwise attempting to reduce the adverse affects. If, after evaluating the alternatives, the agency determines that the benefit to the state from preserving the agricultural use of the land is less than the cost of implementing an alternative action, the agency shall inform the commissioner of that determination in writing.

An agency action is not subject to review under this section or section 17.84 if the action is reviewed as required by chapter 116D and the environmental review rules adopted under that chapter, or if a political subdivision is required by law to review and approve the action.

**History:** 1982 c 512 s 3

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

#### 17.84 DUTIES OF 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:** 1982 c 512 s 5; 1995 c 233 art 2 s 35

### LABORATORY SERVICES ACCOUNT

#### 17.85 LABORATORY SERVICES.

Subdivision 1. **Account.** A laboratory services account is established in the agricultural fund. Payments for laboratory services performed by the laboratory services division of the department of agriculture must be deposited in the agricultural fund and credited to the laboratory services account. Money in the account, including interest earned on the account, is annually appropriated to the commissioner of agriculture to administer the programs of the laboratory services division.

Subd. 2. **Agriculture laboratory.** The agriculture laboratory exists to provide analytical and technical services in support of agency programs that protect and enhance the states' agriculture, environment, and food chain. The laboratory may provide analytical and technical services for a fee to any public or private entity as requested or required to meet department objectives in support of Minnesota agriculture and a national food safety system.

**History:** 1988 c 688 art 20 s 1; 1999 c 231 s 33; 1Sp2001 c 2 s 31.

### URBAN FOREST PROMOTION AND DEVELOPMENT

#### 17.86 URBAN FOREST PROMOTION AND DEVELOPMENT.

Subdivision 1. **Overall.** The following course of action is intended as a basis for prompt action to the maximum extent practical within the limits of state, local, and commercial resources. The assignment of a basic responsibility to a particular agency is

not intended to confer exclusive responsibility or authority unless specifically stated, for joint action is intended as the key to a successful program.

Subd. 2. **Research.** The University of Minnesota and its extension service in cooperation with the commissioner of agriculture shall institute a continuing research program on tree varieties most suitable for growth within the state; and the proper placement of individual trees and groups of trees in new or existing commercial, industrial, and residential settings to maximize energy saving benefits. The University of Minnesota and the commissioner shall work closely with nurseries and other suppliers of trees to assure a constant and reliable supply of the desirable varieties is available for planting.

Subd. 3. **Information.** The University of Minnesota extension service, in cooperation with the commissioners of agriculture, children, families, and learning, natural resources, and commerce, 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 the state energy office in the department of commerce 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.

Subd. 4. **Transportation plantings.** The commissioner of transportation shall utilize information on varieties and placement of trees to provide maximum forestation in rest areas and other areas controlled by the department. The commissioner of transportation should consider the use of trees in conjunction with solid noise walls along urban freeways to the maximum extent practical.

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.

Subd. 6. **Municipal action.** A city of the first or second class shall, by ordinance, require of the developer the use of properly placed trees in new subdivisions and plantings on lands dedicated to parks and open spaces. Cities of the third and fourth class may adopt such ordinances. Counties may assist and encourage the smaller cities in tree planting programs. A municipality may contract on a long-term basis with nurseries and shade tree wholesalers to assure continued availability of nursery stock of the desirable shade tree varieties.

**History:** 1990 c 445 s 1; 1Sp1995 c 3 art 16 s 13; 1Sp2001 c 4 art 6 s 11

## 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

## AGRICULTURAL CONTRACTS

## 17.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 17.90 to 17.98.

Subd. 1a. **Agricultural contract.** "Agricultural contract" means any written contract between a contractor and a producer, but does not include a contract between a grain buyer licensed under section 223.17, subdivision 1, who purchases grain from a producer as a merchant or seller of grain and does not contract with the producer to grow or raise the crops producing the grain.

Subd. 2. **Agricultural commodity.** "Agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use.

Subd. 3. **Contractor.** "Contractor" means a person who in the ordinary course of business buys agricultural commodities grown or raised in this state or who contracts with a producer to grow or raise agricultural commodities in this state.

Subd. 3a. **Legible type.** "Legible type" means a typeface at least as large as ten-point modern type, one-point leaded.

Subd. 3b. **Grain.** "Grain" has the meaning given in section 223.16, subdivision 4.

Subd. 4. **Producer.** "Producer" means a person who produces or causes to be produced an agricultural commodity in a quantity beyond the person's own family use and:

- (1) is able to transfer title to another; or
- (2) provides management, labor, machinery, facilities, or any other production input for the production of an agricultural commodity.

**History:** 1990 c 517 s 1; 2000 c 470 s 1-3; 2002 c 373 s 4,5

## 17.91 REQUIRED LANGUAGE.

Subdivision 1. **Mediation; arbitration.** A contract for an agricultural commodity between a contractor and a producer must contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute, either party may make a written request to the commissioner for mediation or arbitration services as specified in the contract, to facilitate resolution of the dispute.

Subd. 2. **Written disclosure of risks.** An agricultural contract must be accompanied by a clear written disclosure setting forth the nature of the material risks faced by the producer if the producer enters into the contract. The statement must meet the plain language requirements of section 17.943. The statement may be in the form of a written statement or checklist and may be developed in cooperation with producers or producer organizations. A contractor may submit a sample material risk disclosure statement to the commissioner for examination. If the commissioner approves of the statement or fails to respond within 30 days of receipt of the statement, the statement will be deemed to comply with this subdivision and with the plain language requirements of section 17.943.

**History:** 1990 c 517 s 2; 2000 c 470 s 4

## 17.92 RECAPTURE OF CAPITAL INVESTMENT REQUIRED BY AN AGRICULTURAL CONTRACT.

Subdivision 1. **Notice and damages to be paid.** A contractor must not terminate or cancel a contract that requires a producer of agricultural commodities to make a capital investment in buildings or equipment that cost \$100,000 or more and have a useful life of five or more years until:

- (1) the producer has been given written notice of the intention to terminate or cancel the contract at least 180 days before the effective date of the termination or cancellation or as provided in subdivision 3; and

(2) the producer has been reimbursed for damages incurred by an investment in buildings or equipment that was made for the purpose of meeting minimum requirements of the contract.

Subd. 2. **Notice when producer breaches contract.** Except as provided in subdivision 3, if a producer fails to comply with the provisions of a contract that requires a capital investment subject to subdivision 1, a contractor may not terminate or cancel that contract until:

(1) the contractor has given written notice with all the reasons for the termination or cancellation at least 90 days before termination or cancellation or as provided in subdivision 3; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice.

Subd. 3. **Immediate effect of notice.** The 180-day notice period under subdivision 1, clause (1), and the 90-day notice period and 60-day notice period under subdivision 2, clauses (1) and (2), are waived and the contract may be canceled or terminated immediately if the alleged grounds for termination or cancellation are:

(1) voluntary abandonment of the contract relationship by the producer; or

(2) conviction of the producer of an offense directly related to the business conducted under the contract.

**History:** 1990 c 517 s 3

### 17.93 PARENT COMPANY RESPONSIBILITY FOR CONTRACTS OF SUBSIDIARIES.

Subdivision 1. **Licensing.** If a contractor is required to obtain a license to purchase agricultural commodities, the licensing authority may require the parent company of a licensee subsidiary to guarantee payment or contract performance as a condition of licensing.

Subd. 2. **Parent company liability.** If an agricultural contractor is the subsidiary of another corporation, partnership, or association, the parent corporation, partnership, or association is liable to a seller for the amount of any unpaid claim or contract performance claim if the contractor fails to pay or perform according to the terms of the contract.

**History:** 1990 c 517 s 4

### 17.94 IMPLIED PROMISE OF GOOD FAITH.

There is an implied promise of good faith as defined in section 336.1-201, subsection (19), by all parties in all agricultural contracts. In an action to recover damages, if the court finds that there has been a violation of this provision, damages, court costs, and attorney fees may be recovered.

**History:** 1990 c 517 s 5

### 17.941 PRODUCER'S RIGHT TO CANCEL.

A producer may cancel an agricultural contract by mailing a written cancellation notice to the contractor within three business days after the producer receives a copy of the signed contract, or before a later cancellation deadline if a later deadline is specified in the contract. The producer's right to cancel, the method by which the producer may cancel, and the deadline for canceling the contract shall be clearly disclosed in every agricultural contract.

**History:** 2000 c 470 s 5

### 17.942 COVER SHEET REQUIREMENTS.

Subdivision 1. **Mandatory cover page.** An agricultural contract entered into or substantively amended after January 1, 2001, must contain as the first page, or first page of text if it is preceded by a title page or pages, a cover sheet as provided in this section.

Subd. 2. **Requirements.** The cover sheet or sheets must comply with section 17.943, and must contain the following:

(1) a brief statement that the document is a legal contract between the contractor and the producer;

(2) the statement “**READ YOUR CONTRACT CAREFULLY.** This cover sheet provides only a brief summary of your contract. This is not the contract and only the terms of the actual contract are legally binding. The contract itself sets forth, in detail, the rights and obligations of both you and the contractor. **IT IS THEREFORE IMPORTANT THAT YOU READ YOUR CONTRACT CAREFULLY.**”;

(3) the written disclosure of material risks required by section 17.91, subdivision 2;

(4) a statement detailing, in plain language, the producer’s right to review the contract as described in section 17.941; and

(5) an index of the major provisions of the contract and the pages on which they are found, including:

(i) the names of all parties to the contract;

(ii) the definition sections of the contract;

(iii) the provisions governing cancellation, renewal, or amendment of the contract by either party;

(iv) the duties or obligations of each party; and

(v) any provisions subject to change in the contract.

**History:** 2000 c 470 s 6

#### **17.943 CONTRACT FORMAT.**

Subdivision 1. **Readability.** An agricultural contract must be in legible type, appropriately divided and captioned by its various sections, and written in clear and coherent language using words and grammar that are understandable by a person of average intelligence, education, and experience within the industry.

Subd. 2. **Exceptions.** Subdivision 1 does not apply to particular words, phrases, provisions, or forms of agreement specifically required, recommended, or endorsed by a state or federal statute, rule, or regulation.

Subd. 3. **Customarily used terms.** An agricultural contract may include technical terms to describe the services or property which are the subject of the contract, if the terms are customarily used by producers in the ordinary course of business in connection with the services or property being described.

**History:** 2000 c 470 s 7

#### **17.944 REVIEW BY COMMISSIONER.**

Subdivision 1. **Agricultural contracts.** For purposes of this section and section 17.943, “agricultural contract” includes, where applicable, the cover sheet as defined in section 17.942, and material risk disclosure statement required by section 17.91, subdivision 2.

Subd. 2. **Process of review.** A contractor may submit an agricultural contract to the commissioner for review as to whether it complies with section 17.943. After reviewing the contract, the commissioner shall:

(1) certify that the contract complies with section 17.943;

(2) decline to certify that the contract complies with section 17.943 and note objections;

(3) decline to review the contract because the contract’s compliance with section 17.943 is subject to pending litigation; or

(4) decline to review the contract because the contract is not subject to section 17.943.

Subd. 3. **Factors in determining readability.** In determining whether a contract or cover sheet is readable within the meaning of section 17.943, the commissioner shall consider at least the following factors:

- (1) the simplicity of the sentence structure;
- (2) the extent to which commonly used and understood words are employed;
- (3) the extent to which esoteric legal terms are avoided;
- (4) the extent to which references to other sections or provisions of the contract are minimized;
- (5) the Flesch scale analysis readability score as outlined in section 72C.09;
- (6) the extent to which clear definitions are used in the text of the contract; and
- (7) additional factors relevant to the contract being easy to read and understand.

Subd. 4. **Process not reviewable.** Actions of the commissioner under subdivision 1 are not subject to chapter 14 and are not appealable.

Subd. 5. **Limited effect of certification.** A contract certified under subdivision 1 is deemed to comply with section 17.943. Certification of a contract under subdivision 1 does not constitute an approval of the contract's legality or legal effect.

If the commissioner certifies a contract or fails to respond within 30 days of receipt of the contract, the contractor will have complied with sections 17.91 and 17.943, and the remedies stated in subdivisions 7 and 8 are not available.

Subd. 6. **Review not required.** Failure to submit a contract to the commissioner for review under subdivision 1 does not show a lack of good faith or raise a presumption that the contract violates section 17.943.

Subd. 7. **Enforcement remedies.** A violation of section 17.943 is a violation subject to section 8.31, subdivision 1. The remedies in section 8.31, subdivisions 3 and 3a, are limited by section 17.9441.

Subd. 8. **Reformation.** (a) In addition to the remedies provided in section 8.31, a court reviewing an agricultural contract may change the terms of the contract or limit a provision to avoid an unfair result if it finds that:

- (1) a material provision of the contract violates section 17.943;
- (2) the violation caused the producer to be substantially confused about any of the rights, obligations, or remedies of the contract; and
- (3) the violation has caused or is likely to cause financial detriment to the producer.

(b) If the court reforms or limits a provision of a contract, the court shall also make orders necessary to avoid unjust enrichment. Bringing a claim for relief under this subdivision does not entitle a producer to withhold performance of an otherwise valid contractual obligation. No relief may be granted under this subdivision unless the claim is brought before the obligations of the contract have been fully performed.

**History:** 2000 c 470 s 8

#### 17.9441 LIMITS ON REMEDIES.

Subdivision 1. **Penalties.** In a proceeding in which civil penalties are claimed from a party for a violation of section 17.943, it is a defense to the claim that the party made a good faith and reasonable effort to comply with section 17.943.

Subd. 2. **Attorney's fees.** A party who has made a good faith and reasonable effort to comply with section 17.943 may not be assessed attorney's fees or costs of investigation in an action for violating section 17.943.

Subd. 3. **Class action attorney's fees.** In a class action or series of class actions that arise from the use by a contractor of an agricultural contract found to violate section 17.943, the amount of attorney's fees and costs of investigation assessed against that contractor and in favor of the class or classes may not exceed \$10,000.

Subd. 4. **Limits on producer actions.** Violation of section 17.943 is not a defense to a claim arising from a producer's breach of an agricultural contract. A producer may

recover actual damages caused by a violation of section 17.943 only if the violation caused the producer to not understand the rights, obligations, or remedies of the contract.

Subd. 5. **Statute of limitations.** A claim that an agricultural contract violates section 17.943 must be raised within six years of the date the contract is executed by the producer.

**History:** 2000 c 470 s 9

#### 17.9442 APPLICABILITY OF CONTRACT REQUIREMENTS.

The requirements for the written disclosure of material risks under section 17.91, subdivision 2; the three-day review period under section 17.941; the cover sheet requirement under section 17.942; and the contract readability requirements under section 17.943, subdivision 1, do not apply to contracts which provide for:

(1) the sale and purchase of a fixed amount of a commodity for delivery at a set price;

(2) cash sale and forward delivery grain contracts for grain meeting certain specifications and does not prescribe the time, manner, and nature of planting, cultivating, and harvesting the crop producing the grain, including fixed price forward contracts, minimum price contracts, mini-max contracts, basis contracts, hedge-to-arrive contracts, and delayed price contracts;

(3) contracts agreed to between a processor and an accredited bargaining organization under sections 17.691 to 17.702;

(4) futures contracts which involve the sale or purchase of a standardized quantity of a commodity for future delivery on a regulated commodity exchange;

(5) agricultural marketing contracts between a capital stock cooperative and its members under section 308A.205; or

(6) occasional sales between persons who produce or cause to be produced food, feed, or fiber in a quantity beyond their own family use.

**History:** 2000 c 470 s 10; 2001 c 161 s 57; 2002 c 373 s 6

#### 17.9443 WAIVER OF CONTRACT PROVISIONS IS VOID.

Any provision of an agricultural contract which waives or attempts to waive any provision of sections 17.90 to 17.97 is void.

**History:** 2000 c 470 s 11

#### 17.945 RULES.

The commissioner may adopt rules to implement sections 17.90 to 17.98, including the prohibition of specific trade practices.

**History:** 1990 c 517 s 6

#### 17.95 DEPARTMENT OF AGRICULTURE OMBUDSMAN.

A position is created in the department of agriculture to provide information, investigate complaints arising from this chapter, and provide or facilitate dispute resolutions.

**History:** 1990 c 517 s 7

#### 17.97 AGRICULTURAL INPUT PREPAYMENTS.

If a producer makes a prepayment for agricultural production inputs that include but are not limited to seed, feed, fertilizer, pesticides, or fuel for future delivery, the producer may demand a letter of credit or bank guarantee from the provider of the inputs to ensure reimbursement if delivery does not occur.

**History:** 1990 c 517 s 8

**17.98 DAIRY MARKETING CONTRACTS EXCEPTED.**

Dairy marketing agreements between producers and purchasers of milk are not contracts for purposes of sections 17.90 to 17.98.

**History:** 1990 c 517 s 9

**ENFORCEMENT OF AGRICULTURAL LAWS**

**17.981** [Repealed, 1996 c 310 s 1]

**17.982 CRIMINAL AND ADMINISTRATIVE PENALTIES.**

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

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

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

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

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

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

**History:** 1991 c 316 s 2; 1999 c 231 s 34

**17.983 ADMINISTRATIVE PENALTIES AND ENFORCEMENT.**

Subdivision 1. **Administrative penalties; citation.** If a person has violated chapter 29, 31, 31A, 31B, 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.

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

Subd. 3. **Contested case.** If a person appeals a citation or a penalty assessment within the time limits in subdivisions 1 and 2, the commissioner, within 40 days after

receiving the appeal, shall initiate a contested proceeding under chapter 14. The report of the administrative law judge is the final decision of the commissioner of agriculture.

**History:** 1991 c 316 s 3; 1993 c 65 s 2; 1999 c 231 s 35

#### 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.

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

**History:** 1991 c 316 s 4; 1993 c 65 s 3

### PASSING ON THE 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

### ENTRY INTO FARM ANIMAL FACILITIES

#### 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

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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*

**17.987** [Repealed, 1Sp2001 c 2 s 162]