

**84.96 NATIVE PRAIRIE BANK.**

Subdivision 1. **Establishment.** The commissioner shall establish a native prairie bank, determine where native prairie land is located in the state, and prescribe eligibility requirements for inclusion of land in the native prairie bank.

Subd. 2. **Definition.** For the purposes of this section, "native prairie" means land that has never been plowed, with less than ten percent tree cover and with predominantly native prairie vegetation.

Subd. 3. **Easement acquisition.** (a) The commissioner may acquire native prairie for conservation purposes by entering into easements with landowners. The easements must be conservation easements as defined in section 84C.01, clause (1), except the easements may be made possessory as well as nonpossessory if agreed upon by the landowner and the commissioner.

(b) The easements may be permanent or of limited duration. Highest priority must be given to permanent easements consistent with the purposes of this section. Easements of limited duration must be for at least 20 years, with provision for renewal for at least another 20-year period. For easements of limited duration, the commissioner may reexamine and adjust the payment rates at the beginning of any renewal period after considering current land and crop values.

Subd. 4. **Easement agreement.** (a) In the easement between the commissioner and an owner, the owner must agree:

(1) to place in the program for the period of the easement eligible native prairie areas designated by the owner, including prairie covered by a federal or state easement that allows agricultural use and desirable land adjacent to the prairie as determined by the commissioner;

(2) not to alter the native prairie by plowing, heavy grazing, seeding to nonnative grasses or legumes, spraying with large amounts of herbicides, or otherwise destroying the native prairie character of the easement area, except mowing the native prairie tract for wild hay may qualify for easement as determined by the commissioner;

(3) to implement the native prairie conservation and development plan as provided in the easement agreement, unless a requirement in the easement agreement is waived or modified by the commissioner;

(4) to forfeit all rights to further payments under the terms of the easement and to refund to the state all payments received under the easement if the easement is violated at any time when the owner has control of the land subject to the easement, if the commissioner determines that the violation warrants termination of the easement, or if the commissioner determines that the violation does not warrant termination of the easement, the commissioner may determine refunds or payment adjustments to be paid by the commissioner;

(5) not to adopt a practice specified by the commissioner in the easement as a practice that would tend to defeat the purposes of the easement; and

(6) to additional provisions included in the easement that the commissioner determines are desirable.

(b) In return for the easement of the owner, the commissioner shall make payments as provided in subdivision 5 and may provide advice on conservation and development practices on the native prairie in the easement and adjacent areas.

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

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

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

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

Subd. 6. **Renewal.** A limited-term easement may be converted to a permanent easement or renewed at the end of the easement period by mutual agreement of the commissioner and the owner, subject to any rate redetermination by the commissioner.

Subd. 7. **Easement runs with land.** If during the easement period the owner sells or otherwise disposes of the ownership or right of occupancy of the land, the new owner must continue the easement under the same terms or conditions.

Subd. 8. **Modification and termination by agreement.** The commissioner may terminate an easement by mutual agreement with the owner if the commissioner determines that the termination would be in the public interest. The commissioner may agree to modifications of agreements if the commissioner determines the modification is desirable to implement the native prairie program.

Subd. 9. **Rules.** The commissioner of natural resources may adopt rules that include the procedures and payment rates to implement this section.

**History:** 1987 c 357 s 19; 1991 c 254 art 2 s 8