

DEPARTMENT OF AGRICULTURE, MARKETS AND FOOD

Commissioner

Appointed by the governor, with the consent of the council for a **term of five years**. Prior to appointment, the governor and council shall receive and consider the recommendations of the agricultural advisory board as to such appointment. The commissioner shall be qualified by reasons of professional competence, education, and experience. RSA 425.

LORRAINE STUART MERRILL, Stratham

November 28, 2007 to November 18, 2017

CHAPTER 425

THE DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD

Section 425:2

425:2 General Functions. – The department of agriculture, markets, and food shall be responsible for the following general functions:

I. Promoting and regulating agriculture in all its branches.

II. Regulating all commercial transactions involving the measurement of weight, distance, volume, or time.

III. Regulating the quality and grade of agricultural crops and supplies and food products. Nothing in this paragraph shall be construed to apply to dietary supplements as defined in 21 U.S.C. 321, as amended by the Dietary Supplement Health and Education Act of 1994, and as may be amended from time to time.

IV. Gathering and disseminating information on agriculture, crop production, market activity, and other subjects consistent with the responsibilities of the department.

V. Cooperating with other agencies of the state and federal governments, the university of New Hampshire, commodity and consumer groups in the public interest and all who are engaged within this state in any form of agriculture, or its allied vocations, for advice on those activities.

VI. Conducting such other activities as the statutes shall direct.

Source. 1985, 72:1. 1995, 130:2, eff. July 23, 1995.

425:3 Commissioner; Compensation. –

I. The commissioner of the department of agriculture, markets, and food shall be appointed by the governor, with the consent of the council, for a term of 5 years. Prior to the appointment of a commissioner, the governor and council shall receive and consider the recommendations of the agricultural advisory board as to such appointment. The commissioner of agriculture, markets, and food shall be qualified by reasons of professional competence, education, and experience.

II. The salary of the commissioner shall be as specified in RSA 94:1-a.

III. The commissioner of agriculture, markets, and food shall appoint one staff member who shall act

in the commissioner's stead when the commissioner is absent from the state and at such other times as the commissioner shall direct.

Commissioner of Agriculture, Markets, and Food

Section 425:4

425:4 Duties of the Commissioner. – In addition to the powers, duties, and functions otherwise vested by law in the commissioner of agriculture, markets, and food, the commissioner shall:

I. Represent the public interest in the administration of the department and be responsible to the governor, the general court, and the public for such administration.

II. Except as otherwise provided for in this title, have the authority to adopt rules, pursuant to RSA 541-A, necessary to assure continuance or granting of federal funds or other assistance intended to promote agriculture.

III. Have authority to establish a unit within the department to provide for internal administrative functions, including financial, personnel, and other management functions.

IV. Organize the department into divisions and bureaus and assign to such divisions and bureaus their functions.

V. Employ, subject to the state personnel system and within limits of appropriations, such inspectors, clerks, and other assistants as are deemed necessary.

VI. Engage in research and educational programs which benefit agricultural producers, consumers, and the economic and environmental interests of the state.

VII. Cooperate, so far as is practicable, with the extension work of the university of New Hampshire.

VIII. Accept, hold in trust, and exercise control over donations and bequests made to the department for promoting agricultural education or the general interests of agriculture.

COMMISSIONER OF AGRICULTURE, MARKETS & FOOD

SCOPE OF POSITION

The duties and responsibilities of the commissioner of agriculture, markets and food break down very roughly into three broad categories. Many are spelled out in statute, and many others are established by custom, by tradition and by expectation of the position's many constituencies.

The three broad categories can be defined by one word each: Administration, Representation and Advocacy. Here is a general summary of the duties and responsibilities under each of these categories:

ADMINISTRATION

POLICY. Establishes and implements operating policies for all divisions of the department. Develops and communicates department's policy positions on topics related to production agriculture, environment and consumer protection in consultation with the state Congressional delegation, other state agencies, agricultural organizations, commodity groups, consumers and other interested parties.

BUDGET. Develops and submits to the governor the department's biennial budget. Draws upon the division directors in preparation of the budget, including revenue forecasts, and adjusts expenditure lines to conform to budget directives of the governor. Testifies on the budget before governor's budget officers and legislative committees. Approves purchases and payments and monitors expenditures throughout the fiscal year. Makes budgetary adjustments as directed by the governor. Secures approval of contracts. Responsible for inventory of physical property, safekeeping of records and general agency operating policies in accordance with the state Manual of Procedure.

PERSONNEL. Appoints the state veterinarian and director of agricultural development. Hires and supervises classified employees in accordance with state personnel rules. Establishes and revises position descriptions, assigns duties of all employees. Creates internal personnel policy documents. Evaluates division directors and Office of Commissioner employees.

LEGISLATION. Develops and drafts legislative proposals, secures sponsors, testifies in support of department-generated legislation. Monitors all pending legislative bills relevant to the department's functions and mission, develops positions in consultation with staff and outside interests, prepares and presents testimony, establishes and maintains relationships with legislators important to the department's legislative agenda, consults with the governor's staff on pending legislation, prepares fiscal impact statements on all pending bills related to the department's mission.

ADMINISTRATIVE RULES. In consultation with division directors, drafts and secures adoption or renewal of administrative rules wherever directed by statute—currently the commissioner holds rulemaking authority in 158 areas.

REGULATORY AUTHORITY. Holds power to enforce all laws in Title XL of the Revised Statutes Annotated. Has authority to impose administrative fines, to prohibit sale of

certain commodities, to confiscate certain illegal property, to prohibit certain unlawful activities and practices and to seek injunctive relief. Calls and conducts hearings in accordance with the Administrative Procedures Act, or appoints others to sit as hearing officers.

REPRESENTATION

By statute the commissioner of agriculture, markets and food sits on numerous boards and committees. For a number of these it is possible for the commissioner to appoint an employee to serve as a “designee” to attend meetings and represent the commissioner’s office.

Three boards upon which only the commissioner may sit are the following:

UNIVERSITY SYSTEM TRUSTEES. Serves ex officio as full voting member of 27-member body which governs the 24,000-student public higher education system of the state. Each trustee serves on at least two board committees. Meetings require about six full days and six to 10 partial days per year, all during the week. Many, many other events, athletic contests, lectures, plays, commencements, receptions, etc., are available with trustees expected to attend at least some.

PESTICIDE CONTROL BOARD. The commissioner sits as chair of the board, which meets quarterly. It establishes policy on regulation of pesticides and is the appeals body for decisions of the division of pesticide control. From time to time the chair conducts hearings with the full board sitting, at other times the chair sits as sole hearing officer.

CURRENT USE BOARD. Represents the department on 15-member board which establishes value ranges and policies for implementation of the state Current Use program. The commissioner typically is responsible for analyzing and reporting to the board on matters specific to the use-value taxation of farm land. The board meets generally eight to 12 times per year.

Other boards which by statute include the commissioner but where a designee may be allowed to sit include:

STATE CONSERVATION COMMITTEE. Coordinates activities of the 10 county conservation districts with the USDA Natural Resource Conservation Service. Meets quarterly.

LAND AND COMMUNITY HERITAGE INVESTMENT PROGRAM. Expends state funds for protection of important land and cultural resources. Meets monthly.

MILK SANITATION BOARD. Hears appeals of decisions by the Dairy Sanitation Section of the HHS Bureau of Food Protection. Meets infrequently.

AGRICULTURAL LANDS PRESERVATION COMMITTEE. Administers easements acquired under the Agricultural Land Preservation program administered by the department in the 1980s. Hears requests for modifications to easement terms. Meets infrequently.

EASTERN STATES EXPOSITION TRUSTEES. Serves as ex officio member of the “Big E” board of trustees from New Hampshire. Meets three to four times annually.

COUNCIL OF RESOURCE AND DEVELOPMENT AGENCIES. Representatives of 10 agencies sit to review and implement policy relating to state land and water resources and their interface with development activities. It also reviews proposed sales of surplus state real estate. Meets every other month.

NRCS STATE TECHNICAL COMMITTEE. Advises USDA Natural Resources Conservation Service on soil and water conservation matters. Meets six to eight times annually.

WETLANDS COUNCIL. Advises the Department of Environmental Services on wetland protection issues and hears appeals. Meets bi-monthly.

RIVERS MANAGEMENT ADVISORY COMMITTEE. Advises DES on watershed management issues. Meets bi-monthly.

LAKES MANAGEMENT ADVISORY COMMITTEE. Same as Rivers MAC only for lakes.

INFORMATION TECHNOLOGY COUNCIL. Advises Office of Information Technology, representing smaller agencies. Meets bi-monthly.

PUBLIC HEALTH AND ENVIRONMENT RELATIONSHIP COMMITTEE. Created in 2000 legislative session, made permanent in 2007. Meets monthly.

STATE DROUGHT MANAGEMENT COMMITTEE. Meets during times of drought to assess stream flow management, water usage bans and similar matters.

DAIRY ASSISTANCE PROGRAM BOARD. Established in 2007 legislative session, tasked with development of countercyclical actions the state may take to stabilize the farm milk price. Meeting frequency not yet established.

IMMIGRATION STUDY COMMITTEE. Established in 2007 legislative study to examine impacts of immigration on the state. Meeting frequency not yet established.

NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE. Washington-based organization that advocates on legislative and executive branch policies affecting agriculture and related state government agencies in the respective states. Meets twice annually for four to five days, plus one two-day Northeastern regional meeting.

ADVOCACY

Beyond a very general statutory provision that the department of agriculture, markets and food shall “promote agriculture in all its branches,” there is little that specifies what it or the commissioner shall do toward that end. Instead, a body of functions has grown up around the position that are now well-established expectations for its performance.

Here is a list of some of some of those functions—it is by no means a complete one:

WEEKLY MARKET BULLETIN. The commissioner is publisher and editor of the publication, which has a paid subscriber list of nearly 8,000 paper and electronic. It is edited to provide market news, general information related to agriculture and rural life and a marketplace for acquisition and sale of farm commodities. It is the principal means by which the department communicates to various constituencies and it also is provided to New Hampshire news organizations as a substitute for news releases.

MEDIA RELATIONS. The commissioner is the primary spokesperson for the department, and is expected to be able to communicate on a range of issues within and beyond the immediate realm of the department, from food safety to land use regulation to consumer protection. Accessibility and truthfulness are essential elements for successful media relations in New Hampshire. Submits to frequent radio, television and print interviews. Prepares occasional articles and op-ed columns upon request.

INTERVENTION. Friction between agriculture and the non-farm population is a constant in New Hampshire in this age, and mediating conflicts over land use and farming

practices engages the commissioner frequently. Many of these matters can be resolved through education and common sense, others require more.

TELLING THE STORY. With less than two percent of the state's population involved in agriculture, there's a vast audience that needs to learn about it and the benefits it confers on the state. Rotary clubs, historical societies, classrooms and many more venues are ready to hear a positive message about New Hampshire agriculture.

STRENGTHENING MARKETS. Opportunities for New Hampshire producers continue to grow, and the commissioner plays a vital role in connecting producers and consumers in many ways.

SHOWING UP. There are many groups and activities in the New Hampshire agricultural community—fairs, Farm Bureaus, the Veterinary Medical Association, the Plant Growers, the Purebred Dairy Cattle Club show, ox pullers, garden clubs, maple weekends, farmers' markets, antique tractor meets, on and on—that welcome and feel validated by the presence of the commissioner.

LITTLE THINGS. Far from the budgets and the policy issues and the committee meetings are dozens of little tasks that fall to the commissioner. To suggest a handful: straightening out tractor number plate confusion at the registry; finding a ram to breed a 4-H kid's ewe; a grad school recommendation for a promising plant scientist; identifying an antique tool shown in an old photograph; suggesting the best way to grow rhubarb; suggesting a reliable source for a recipe for maple cream pie..