

## CHAPTER 326—S.F.No. 262

*An act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a legislative water commission; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating water conservation, water appropriations, and setting fees; establishing regulations, enforcing violations, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 5, 12, 15, 19, 21, 26, 30, and by adding subdivisions; 18B.04; 18B.07, subdivisions 2, 3, 4, and 6; 18B.08, subdivisions 1, 3, and 4; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 1, 3, and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3, and 7; 18B.34, subdivisions 1, 2, and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, 3, and 4; 40.42, by adding a subdivision; 40.43, subdivisions 2 and 6; 43A.08, subdivision 1; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 110B.35, subdivision 3; 115B.20; 116C.41, subdivision 1, and by adding a subdivision; and 473.877, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; and 40; proposing coding for new law as Minnesota Statutes, chapters 18C; 18D; 18E; 103A; 103B; 103H; and 103I; repealing Minnesota Statutes 1988, sections 17.711 to 17.73; 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; 18B.25; 84.57 to 84.621; 105.51, subdivision 3; and 156A.01 to 156A.11.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

New language is indicated by underline, deletions by ~~strikeout~~.

**ARTICLE 1**  
**CHAPTER 103H**  
**GROUNDWATER PROTECTION**

**Section 1. [103H.001] DEGRADATION PREVENTION GOAL.**

It is the goal of the state that groundwater be maintained in its natural condition, free from any degradation caused by human activities. It is recognized that for some human activities this degradation prevention goal cannot be practicably achieved. However, where prevention is practicable, it is intended that it be achieved. Where it is not currently practicable, the development of methods and technology that will make prevention practicable is encouraged.

**Sec. 2. [103H.005] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to this chapter.

Subd. 2. AGRICULTURAL CHEMICAL. "Agricultural chemical" means a pesticide, fertilizer, plant amendment, or soil amendment.

Subd. 3. HEALTH RISK LIMITS. "Health risk limits" means a concentration of a substance or chemical adopted by rule of the commissioner of health that is a potential drinking water contaminant because of a systemic or carcinogenic toxicological result from consumption.

Subd. 4. BEST MANAGEMENT PRACTICES. "Best management practices" means practicable voluntary practices that are capable of preventing and minimizing degradation of groundwater, considering economic factors, availability, technical feasibility, implementability, effectiveness, and environmental effects. Best management practices apply to schedules of activities; design and operation standards; restrictions of practices; maintenance procedures; management plans; practices to prevent site releases, spillage, or leaks; application and use of chemicals; drainage from raw material storage; operating procedures; treatment requirements; and other activities causing groundwater degradation.

Subd. 5. COMMON DETECTION. "Common detection" means detection of a pollutant that is not due to misuse or unusual or unique circumstances, but is likely to be the result of normal use of a product or a practice.

Subd. 6. DEGRADATION. "Degradation" means changing groundwater from its natural condition by human activities.

Subd. 7. FERTILIZER. "Fertilizer" has the meaning given in article 6, section 2, subdivision 11.

Subd. 8. GROUNDWATER. "Groundwater" means groundwater as defined in section 115.01, subdivision 21.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 9. PESTICIDE. "Pesticide" has the meaning given in section 18B.01, subdivision 18.

Subd. 10. PLANT AMENDMENT. "Plant amendment" has the meaning given in article 6, section 2, subdivision 25.

Subd. 11. POLLUTANT. "Pollutant" means a chemical or substance for which a health risk limit has been adopted.

Subd. 12. POLLUTION. "Pollution" means degradation of groundwater by a pollutant.

Subd. 13. SENSITIVE AREA. "Sensitive area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface.

Subd. 14. SOIL AMENDMENT. "Soil amendment" has the meaning given in article 6, section 2, subdivision 34.

Subd. 15. WATER RESOURCE PROTECTION REQUIREMENTS. "Water resource protection requirements" means requirements adopted by rule for one or more pollutants intended to prevent and minimize pollution of groundwater. Water resource protection requirements include design criteria, standards, operation and maintenance procedures, practices to prevent releases, spills, leaks, and incidents, restrictions on use and practices, and treatment requirements.

## PROTECTION OF SENSITIVE AREAS

### Sec. 3. [103H.101] PROTECTION OF SENSITIVE AREAS.

Subdivision 1. CRITERIA FOR DETERMINATION OF SENSITIVE AREAS. The commissioner of natural resources in consultation with the Minnesota geological survey, soil and water conservation districts, local water planning authorities, and other interested parties shall develop specific criteria for identifying sensitive groundwater areas and adopt the criteria by rule.

Subd. 2. IDENTIFICATION OF SENSITIVE AREAS. The commissioner of natural resources shall, in consultation with the Minnesota geological survey, identify the location of sensitive areas by mapping and other appropriate methods after consulting the Minnesota geological survey, soil and water conservation districts, and local water planning authorities.

Subd. 3. NOTIFICATION OF LOCATION OF SENSITIVE AREAS. The commissioner of natural resources shall:

(1) notify political subdivisions with planning or zoning authority and provide maps and other materials that show where sensitive areas are located and indicate the type of risk of groundwater degradation that may occur from activities at or near the surface; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) publish notification of sensitive areas in a newspaper of general circulation in the county where the sensitive areas are located.

**Subd. 4. INFORMATION GATHERING.** The commissioner of natural resources shall coordinate the collection of state and local information to identify sensitive areas. Information must be automated on or accessible to systems developed at the land management information center of the state planning agency.

**Subd. 5. STATE PROTECTION OF SENSITIVE AREAS.** (a) The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants must consider the type of risk identified under subdivision 3 when adopting best management practices, water resource protection plans, and water resource protection requirements to prevent and minimize groundwater degradation in sensitive areas.

(b) To prevent and minimize groundwater degradation, state agencies must consider the type of risk identified under subdivision 3 when undertaking an activity within a sensitive area.

**Subd. 6. ACTIONS BY REGULATING AUTHORITIES.** Upon adoption of a comprehensive local water plan as defined in chapter 110B or a water management plan under chapter 473, a regulating authority must take into account the plan and any geological assessments referenced in the plan when taking appropriate actions in sensitive areas.

**Subd. 7. STATE AGENCIES.** Each state agency that has a program affecting activities that may cause or contribute to groundwater pollution shall identify and develop best management practices to ensure that the program is consistent with and is effective in achieving the goal of section 1. For those activities which may cause or contribute to pollution of groundwater, but are not directly regulated by the state, best management practices shall be promoted through education, support programs, incentives, and other mechanisms.

#### **Sec. 4. [103H.105] CONSERVATION EASEMENTS TO PROTECT SENSITIVE AREAS.**

(a) Agricultural land within a sensitive area identified in section 3, subdivision 2, or by the board of water and soil resources and land in or immediately surrounding a sinkhole is marginal agricultural land for purposes of section 40.43, subdivision 2, and is eligible for the conservation reserve program under section 40.43.

(b) Notwithstanding section 40.43, subdivision 2, clauses (2) and (5), and subdivision 4, the board of water and soil resources may authorize acquisition of hillside easements that restrict hillside pasturing or grazing of livestock.

#### **Sec. 5. [103H.111] LIABILITY AFTER PROTECTION OF SENSITIVE AREA.**

New language is indicated by underline, deletions by ~~strikeout~~.

(a) A landowner within a sensitive area, identified under section 3, has a complete defense to liability for degradation of groundwater caused by surface water from the sensitive area recharging groundwater if:

(1) the landowner's portion of the sensitive area is subject to a plan adopted by the soil and water conservation district to protect the groundwater from degradation through surface water recharge;

(2) the projects and practices required by the plan have been implemented and have been certified as having been implemented by the soil and water conservation district;

(3) the projects and practices required by the plan are maintained according to the plan; and

(4) the landowner has not allowed unlawful practices on the property that disrupt the projects and practices required by the plan.

(b) The soil and water conservation district's plan must include appropriate best management practices and water resource protection requirements.

#### Sec. 6. [103H.151] BEST MANAGEMENT PRACTICES.

Subdivision 1. DEVELOPMENT BY POLLUTION CONTROL AGENCY. Except as provided in subdivision 2 for agricultural chemicals and practices, the pollution control agency in consultation with local water planning authorities shall develop best management practices for the prevention of groundwater degradation for specific activity categories. The pollution control agency shall contact and solicit comments from affected persons and businesses in developing the best management practices. The pollution control agency must publish notice and also solicit comments and recommendations from state agencies and local governments affected by or regulating the activities.

Subd. 2. AGRICULTURAL CHEMICAL BEST MANAGEMENT PRACTICES. The commissioner of agriculture in consultation with local water planning authorities shall develop best management practices for agricultural chemicals and practices. The commissioner shall give public notice and contact and solicit comment from affected persons and businesses interested in developing the best management practices.

Subd. 3. EDUCATION AND PROMOTION. The commissioners of the pollution control agency and agriculture, in conjunction with the board of water and soil resources, soil and water conservation districts, and the Minnesota extension service, must promote best management practices and provide education about how the use of best management practices will prevent, minimize, reduce, and eliminate the source of groundwater degradation. The promotion and education shall include demonstration projects.

New language is indicated by underline, deletions by ~~strikeout~~.

## GROUNDWATER QUALITY MONITORING

## Sec. 7. [103H.175] GROUNDWATER QUALITY MONITORING.

Subdivision 1. MONITORING RESULTS TO BE SUBMITTED TO THE ENVIRONMENTAL QUALITY BOARD. The results of monitoring groundwater quality by state agencies and political subdivisions must be submitted to the state planning agency.

Subd. 2. COMPUTERIZED DATA BASE. The state planning agency shall maintain a computerized data base of the results of groundwater quality monitoring in a manner that is accessible to the pollution control agency, department of agriculture, department of health, and department of natural resources. The state planning agency shall assess the quality and reliability of the data and organize the data in a usable format.

## HEALTH RISK LIMITS

## Sec. 8. [103H.201] HEALTH RISK LIMITS.

Subdivision 1. PROCEDURE. (a) If groundwater quality monitoring results show that there is a degradation of groundwater, the commissioner of health may promulgate health risk limits under subdivision 2 for substances degrading the groundwater.

(b) Health risk limits shall be determined by two methods depending on their toxicological end point.

(c) For systemic toxicants that are not carcinogens, the adopted health risk limits shall be derived using United States Environmental Protection Agency risk assessment methods using a reference dose, a drinking water equivalent, an uncertainty factor, and a factor for relative source contamination, which in general will measure an estimate of daily exposure to the human population, including sensitive subgroups, that is unlikely to result in deleterious effects during long-term exposure.

(d) For toxicants that are known or probable carcinogens, the adopted health risk limits shall be derived from a quantitative estimate of the chemical's carcinogenic potency published by the United States Environmental Protection Agency's carcinogen assessment group.

Subd. 2. ADOPTION. (a) Health risk limits shall be adopted by rule.

(b) If the commissioner determines that emergency conditions exist and the public health and welfare require the health risk limits to be adopted as soon as possible, the commissioner shall promulgate the adopted health risk limits notwithstanding chapter 14 but the adopted health risk limits adopted under this paragraph are only effective for one year.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 3. REVIEW AND REVISION.** (a) The commissioner shall review each adopted health risk limit at least every four years.

(b) The commissioner may revise health risk limits under subdivision 2.

**Subd. 4. ADOPTION OF EXISTING RECOMMENDED ALLOWABLE LIMITS.** (a) Notwithstanding and in lieu of subdivision 2, the commissioner may adopt recommended allowable limits established by the commissioner on or before May 1, 1989, as health risk limits under this subdivision. Before a recommended allowable limit is adopted as an adopted health risk limit under this subdivision, the commissioner shall:

(1) publish in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts notice of intent to adopt a recommended allowable limit as an adopted health risk limit for specific substances and shall solicit information on the health impacts of the substance;

(2) publish the recommended allowable limit in the State Register and disseminate through the Minnesota extension service and through soil and water conservation districts allowing 60 days for public comment; and

(3) publish the recommended allowable limit in the State Register and, at the same time, make available a summary of the public comments received and the commissioner's responses to the comments.

(b) A recommended allowable limit adopted by the commissioner as an adopted health risk limit under this subdivision may be challenged in the manner provided in sections 14.44 and 14.45.

(c) After July 1, 1991, and before September 1, 1991, 25 or more persons may submit a written request for a public hearing as provided under section 14.25 for any health risk limits as adopted under this subdivision.

#### EVALUATION AND COMMON DETECTION OF POLLUTION

##### Sec. 9. [103H.251] EVALUATION OF DETECTION OF POLLUTANTS.

**Subdivision 1. METHODS.** (a) The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall evaluate the detection of pollutants in ground-water of the state. Evaluation of the detection may include collection technique, sampling handling technique, laboratory practices, other quality control practices, climatological conditions, and potential pollutant sources.

(b) If conditions indicate a likelihood of the detection of the pollutant or pollutant breakdown product to be a common detection, the commissioner of agriculture or the pollution control agency must begin development of best management practices and continue to monitor for the pollutant or pollutant breakdown products.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. ANALYSIS OF POLLUTION TREND. The commissioner of agriculture for pollution resulting from agricultural chemicals and practices and the pollution control agency for other pollutants shall develop and implement groundwater monitoring and hydrogeologic evaluation following pollution detection to evaluate pollution frequency and concentration trend. Assessment of the site-specific and pollutant-specific conditions and the likelihood of common detection must include applicable monitoring, pollutant use information, physical and chemical properties of the pollutant, hydrogeologic information, and review of information and data from other local, state, or federal monitoring data bases.

**Sec. 10. [103H.275] MANAGEMENT OF POLLUTANTS WHERE GROUNDWATER IS POLLUTED.**

Subdivision 1. AREAS WHERE GROUNDWATER POLLUTION IS DETECTED. (a) If groundwater pollution is detected, a state agency or political subdivision that regulates an activity causing or potentially causing a contribution to the pollution identified shall promote implementation of best management practices to prevent or minimize the source of pollution to the extent practicable.

(b) The pollution control agency, or for agricultural chemicals and practices, the commissioner of agriculture may adopt water source protection requirements under subdivision 2 that are consistent with the goal of section 1 and are commensurate with the groundwater pollution if the implementation of best management practices have proven to be ineffective.

(c) The water resources protection requirements must be:

- (1) designed to prevent and minimize the pollution to the extent practicable;
  - (2) designed to prevent the pollution from exceeding the health risk limits;
- and
- (3) submitted to the legislative water commission.

Subd. 2. ADOPTION OF WATER RESOURCE PROTECTION REQUIREMENTS. (a) The pollution control agency, or for agricultural chemicals and practices, the commissioner of agriculture shall adopt by rule water resource protection requirements that are consistent with the goal of section 1 to prevent and minimize the pollution to the extent practicable. The proposed rule must be submitted to the legislative water commission for review before adoption. The water resource protection requirements must be based on the use and effectiveness of best management practices, the product use and practices contributing to the pollution detected, economic factors, availability, technical feasibility, implementability, and effectiveness. The water resource protection requirements may be adopted for one or more pollutants or a similar class of pollutants. A water resource protection requirement may not be adopted before January 1, 1991.

**New language is indicated by underline, deletions by ~~strikeout~~.**

(b) Before the water resource protection requirements are adopted, the pollution control agency or the commissioner of agriculture for agricultural chemicals and practices must notify affected persons and businesses for comments and input in developing the water resource protection requirements.

(c) Unless the water resource protection requirements are to cover the entire state, the water resource protection requirements are only effective in areas designated by the commissioner of the pollution control agency by order or for agricultural chemicals and practices in areas designated by the commissioner of agriculture by order. The procedures for issuing the order and the effective date of the order must be included in the water resource protection requirements rule.

(d) The water resource protection requirements rule must contain procedures for notice to be given to persons affected by the rule and order of the commissioner. The procedures may include notice by publication, personal service, and other appropriate methods to inform affected persons of the rule and commissioner's order.

(e) A person who is subject to a water resource protection requirement may apply to the pollution control agency, or for agricultural chemicals and practices the commissioner of agriculture, and suggest an alternative protection requirement. Within 60 days after receipt, the agency or commissioner of agriculture must approve or deny the request. If the pollution control agency or commissioner of agriculture approves the request, an order must be issued approving the alternative protection requirement.

(f) A person who violates a water resource protection requirement relating to pollutants, other than agricultural chemicals, is subject to the penalties for violating a rule adopted under chapter 116. A person who violates a water resource protection requirement relating to agricultural chemicals and practices is subject to the penalties for violating a rule adopted under chapter 18D.

**Sec. 11. [103H.280] AUTHORITY IS SUPPLEMENTAL.**

The authority of the pollution control agency and the commissioner of agriculture in this article is supplemental to other authority given by law and does not restrict other authorities.

**Sec. 12. NITROGEN COMPOUNDS IN GROUNDWATER STUDY.**

The pollution control agency and the department of agriculture, in consultation with the board of water and soil resources and the Minnesota experiment station, shall prepare a report on nitrate and related nitrogen compounds in groundwater. The report shall consider recommendations made by local government in comprehensive local water plans and shall incorporate the findings of the nitrogen fertilizer task force and utilize data developed by the Minnesota experiment station. This report shall be submitted to the legislative water commission by July 1, 1991. The commission shall provide recommendations to the legislature by November 15, 1991, based upon this report.

New language is indicated by underline, deletions by ~~strikeout~~.

The report shall be based on existing information and shall examine areas in which improvements in the state and local response to this problem are feasible. The report shall address the following issues: the determination of trends in nitrogen pollution; causative factors; the development of recommended best management practices to reduce and minimize the pollution; regulatory controls; the feasibility of proposed treatment and corrective or mitigative measures; and the economic impacts of proposed corrective measures.

## ARTICLE 2

### WATER RESEARCH, INFORMATION, AND EDUCATION

#### Section 1. [3.887] LEGISLATIVE WATER COMMISSION.

Subdivision 1. ESTABLISHMENT. A legislative water commission is established.

Subd. 2. MEMBERSHIP. (a) The legislative water commission shall consist of ten members appointed as follows:

(1) five members of the the senate with minority representation proportionate to minority membership in the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed; and

(2) five members of the house of representatives with minority representation proportionate to minority membership in the house to be appointed by the speaker of the house and to serve until their successors are appointed.

(b) Vacancies shall be filled in the same manner as the original positions.

(c) Vacancies occurring on the commission do not affect the authority of the remaining members of the legislative water commission to carry out the function of the commission.

Subd. 3. SUBCOMMITTEES. Two subcommittees shall be established in the legislative water commission, one on groundwater and one on surface water.

Subd. 4. STAFF. The legislative water commission may appoint and fix the compensation of additional legal and other personnel and consultants necessary to enable the commission to carry out its function, or to contract for services to supply necessary data subject to the approval of the legislative coordinating commission under section 3.305. State employees subject to civil service laws and regulations who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege.

Subd. 5. POWERS AND DUTIES. (a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The commission may conduct public hearings and otherwise secure data and comments.

(c) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.

(d) Data or information compiled by the legislative water commission or its subcommittees shall be made available to the Minnesota future resources commission and standing and interim committees of the legislature on request of the chair of the respective commission or committee.

Subd. 6. STUDY. The legislative water commission shall study the recommendations of the environmental quality board for the management and protection of water resources in the state, and shall report its findings to the Minnesota future resources commission and the legislature by November 15, 1991, on the state's water management needs for the year 2000.

Subd. 7. EFFECTS OF SUSTAINABLE AGRICULTURE. The legislative water commission shall study the implementation and effects of sustainable agriculture in the state including current and potential practices and their effect on water and groundwater.

Subd. 8. REPEALER. This section is repealed effective June 30, 1995.

## Sec. 2. [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. Sustainable agriculture has the meaning given to it in Laws 1987, chapter 396, article 12, section 6.

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;

New language is indicated by underline, deletions by strikeout.

(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 legislature every odd-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. 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;

New language is indicated by underline, deletions by ~~strikeout~~.

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 governor and legislature by November 15, 1990, and on a biennial basis thereafter.

**Sec. 3. [40.31] ENVIRONMENTAL AGRICULTURALIST EDUCATION PROGRAM.**

Subdivision 1. PROGRAM. An environmental agricultural program is established:

- (1) to work with agricultural producers;
- (2) to advise and inform agricultural producers on the impact of certain farming practices on water quality;
- (3) to promote sustainable agriculture through use of best management practices and integrated pest management;
- (4) to demonstrate and evaluate alternative pesticide practices; and
- (5) to develop and promote farm profitability through a reduction in farm inputs.

Subd. 2. CONTRACTS. Contracts to carry out the program must be awarded by the board of water and soil resources following review by the legislative water commission.

Sec. 4. Minnesota Statutes 1988, section 40.42, is amended by adding a subdivision to read:

Subd. 6a. SENSITIVE AREA. "Sensitive area" means a geographic area defined by natural features where the groundwater is at significant risk of contamination from activities conducted at or near the land surface.

Sec. 5. Minnesota Statutes 1988, section 40.43, subdivision 2, is amended to read:

Subd. 2. **ELIGIBLE LAND.** (a) Land may be placed in the conservation reserve program if the land complies with paragraph (b) and:

- (1) is marginal agricultural land; ~~or;~~
- (2) is adjacent to marginal agricultural land and is either beneficial to resource protection or necessary for efficient recording of the land description; ~~or;~~
- (3) consists of a drained wetland; ~~or is land that with a windbreak would be beneficial to resource protection,~~ and cropland adjacent to the restored wetland

New language is indicated by underline, deletions by ~~strikeout~~.

may also be enrolled to the extent of up to four acres of cropland for each acre of wetland restored;

(4) is land that with a windbreak would be beneficial to resource protection;

(5) is land in a sensitive area; or

(6) is land on a hillside used for pasture.

(b) Land under paragraph (a) may be placed in the conservation reserve program if the land:

~~(2)~~ (1) was owned by the landowner on January 1, 1985, or was owned by the landowner, or a parent or other blood relative of the landowner, for at least three years before the date of application;

~~(3)~~ (2) is at least five acres in size, except for a windbreak, or is a whole field as defined by the United States Agricultural Stabilization and Conservation Services;

~~(4)~~ (3) is not set aside, enrolled or diverted under another federal or state government program; and

~~(5)~~ (4) except for land on a hillside used for pasture was in agricultural crop production for at least two years during the period 1981 to 1985.

(c) The enrolled land of a landowner may not exceed 20 percent of the landowner's total agricultural land acreage in the state, if the landowner owns at least 200 acres of agricultural land as defined by section 500.24, subdivision 2. If a landowner owns less than 200 acres of agricultural land the amount that may be enrolled in the conservation reserve is:

~~(a)~~ (1) all agricultural land owned, if 20 acres or less; or

~~(b)~~ (2) if the total agricultural land owned is more than 20 acres but less than 200 acres, 20 acres plus ten percent of the balance of the agricultural land.

(d) In selecting land for enrollment in the program, highest priority must be given to permanent easements that are consistent with the purposes stated in section 40.41.

Sec. 6. Minnesota Statutes 1988, section 40.43, subdivision 6, is amended to read:

Subd. 6. **PAYMENTS FOR CONSERVATION EASEMENTS AND ESTABLISHMENT OF COVER.** (a) The commissioner must make the following payments to the landowner for the conservation easement and agreement:

(1) to establish the perennial cover or other improvements required by the agreement, up to 75 percent of the total eligible cost not to exceed \$75 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$100 per acre for perpetual easements;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) for the cost of planting trees required by the agreement, up to 75 percent of the total eligible cost not to exceed \$200 per acre for limited duration easements, and 100 percent of the total eligible cost not to exceed \$300 per acre for perpetual easements;

(3) for a permanent easement, 70 percent of the township average equalized estimated market value of agricultural property as established by the commissioner of revenue at the time of easement application;

(4) for an easement of limited duration, 90 percent of the present value of the average of the accepted bids for the federal conservation reserve program, as contained in Public Law Number 99-198, in the relevant geographic area and on bids accepted at the time of easement application; or

(5) an alternative payment system for easements based on cash rent or a similar system as may be determined by the commissioner.

(b) For hillside pasture conservation easements, the payments in paragraph (a) must be reduced to reflect the value of similar property.

(c) The commissioner may not pay more than \$50,000 to a landowner for all the landowner's conservation easements and agreements.

#### Sec. 7. [103A.43] WATER RESEARCH NEEDS EVALUATION.

(a) The environmental quality board shall evaluate and report to the legislative water commission and the Minnesota future resources commission on state-wide water research needs and recommended priorities for addressing these needs. Local water research needs may also be included.

(b) The environmental quality board shall conduct a biennial assessment of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water.

(c) The environmental quality board shall assess the quantity of surface and ground water in the state and the availability of water to meet the state's needs.

(d) The environmental quality board shall prepare and submit a report to the legislative water commission and the Minnesota future resources commission by September 15 of each odd-numbered year.

#### Sec. 8. [103B.3361] CITATION.

Sections 103B.3361 to 103B.3369 may be cited as the "local water resources protection and management program."

#### Sec. 9. [103B.3363] DEFINITIONS.

Subdivision 1. SCOPE. The definitions in this section apply to sections 103B.3363 and 103B.3369.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. BOARD. "Board" means the board of water and soil resources.

Subd. 3. COMPREHENSIVE LOCAL WATER PLAN. "Comprehensive local water plan" means a county water plan authorized under section 110B.04, a watershed management plan required under section 473.878, a watershed management plan required under section 112.46, or a county groundwater plan authorized under section 473.8785.

Subd. 4. LOCAL UNIT OF GOVERNMENT. "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.

Subd. 5. PROGRAM. "Program" means a water-related program.

**Sec. 10. [103B.3369] LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.**

Subdivision 1. ASSISTANCE PRIORITIES. State agencies may give priority to local requests that are part of or responsive to a comprehensive local water plan when administering programs for water-related financial and technical assistance.

Subd. 2. ESTABLISHMENT. A local water resources protection and management program is established. The board shall provide financial assistance to counties for local government activities that protect or manage water and related land quality. The activities include planning, zoning, official controls, and other activities to implement comprehensive local water plans.

Subd. 3. COUNTY REQUEST AND SPONSORSHIP. Counties must submit funding requests to the board. A county must coordinate and submit requests on behalf of other units of government within its jurisdiction.

Subd. 4. CONTRACTS WITH LOCAL GOVERNMENTS. A county may contract with other appropriate local units of government to implement programs. An explanation of the program responsibilities proposed to be contracted with other local units of government must accompany grant requests. A county that contracts with other local units of government is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Subd. 5. FINANCIAL ASSISTANCE. The board may award grants to counties only to carry out water resource protection and management programs identified as priorities in comprehensive local water plans. Grants may be used to employ persons and to obtain and use information necessary to:

(1) develop comprehensive local water plans under section 110B.04 that

New language is indicated by underline, deletions by ~~strikeout~~.

have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a); and

(2) implement comprehensive local water plans.

Subd. 6. LIMITATIONS. (a) Grants provided to implement programs under this section must be reviewed by the state agency having statutory program authority to assure compliance with minimum state standards. At the request of the state agency commissioner, the board shall revoke the portion of a grant used to support a program not in compliance.

(b) Grants provided to develop comprehensive local water plans may not be awarded for a time longer than two years.

(c) A county may not request or be awarded grants for project implementation unless a comprehensive water plan has been adopted.

Subd. 7. RULES. The board shall adopt rules that:

(1) establish performance criteria for grant administration for local implementation of state delegated or mandated programs that recognize regional variations in program needs and priorities;

(2) recognize the unique nature of state delegated or mandated programs;

(3) specify that program activities contracted by a county to another local unit of government are eligible for funding;

(4) require that grants from the board may not exceed the amount matched by participating local units of government; and

(5) specify a process for the board to establish a base level grant amount that all participating counties may be eligible to receive.

Subd. 8. PRIORITIES. (a) In reviewing requests, the board must give priority to requests based on:

(1) completion of comprehensive water plans under sections 110B.04 and 473.8785;

(2) adoption, administration, and enforcement of official controls;

(3) indicate the participation of several local units of government, including multicounty efforts;

(4) complement efforts of federal, state, and local units of government; and

(5) demonstrate long-term commitments to effective water protection and management programs.

(b) The board shall consult with appropriate agencies to evaluate grant requests and coordinate project activities with other state, federal, and local research management projects.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 11. Minnesota Statutes 1988, section 110B.04, subdivision 6, is amended to read:

Subd. 6. **SCOPE OF PLANS.** Comprehensive water plans must include:

(1) a description of the existing and expected changes to physical environment, land use, and development in the county;

(2) available information about the surface water, groundwater, and related land resources in the county, including existing and potential distribution, availability, quality, and use;

(3) objectives for future development, use, and conservation of water and related land resources, including objectives that concern water quality and quantity, and sensitive areas, wellhead protection areas, and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

Sec. 12. Minnesota Statutes 1988, section 110B.35, subdivision 3, is amended to read:

Subd. 3. **EX OFFICIO NONVOTING MEMBERS.** The following agencies shall each provide one nonvoting member to the board:

(1) department of agriculture;

(2) department of health;

(3) department of natural resources; ~~and~~

New language is indicated by underline, deletions by ~~strikeout~~.

(4) pollution control agency; and

(5) the University of Minnesota.

Sec. 13. Minnesota Statutes 1988, section 116C.41, subdivision 1, is amended to read:

Subdivision 1. **WATER PLANNING.** The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979" including a new plan and strategy by November 15, 1990, and each five-year interval afterwards;

(3) coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies; and

(4) coordinate development of state water policy recommendations and priorities, and a recommended program for funding identified needs, including priorities for implementing the state water resources monitoring plan;

(5) in cooperation with state agencies participating in the monitoring of water resources, develop a plan for monitoring the state's water resources;

(6) administer federal water resources planning with multiagency interests;

(7) ensure that groundwater quality monitoring and related data is provided and integrated into the Minnesota land management information system according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data;

(8) identify water resources information and education needs, priorities, and goals and prepare an implementation plan to guide state activities relating to water resources information and education;

(9) coordinate the development and evaluation of water information and education materials and resources; and

(10) coordinate the dissemination of water information and education through existing delivery systems.

Sec. 14. Minnesota Statutes 1988, section 116C.41, is amended by adding a subdivision to read:

**Subd. 4. CONSISTENCY OF STATE INFORMATION ACTIVITIES.** State agency information and education activities must be consistent with the implementation plan required under subdivision 1, clause (8).

New language is indicated by underline, deletions by ~~strikeout~~.

## ARTICLE 3

## CHAPTER 103I

## WELLS, BORINGS, AND UNDERGROUND USES

## Section 1. [103I.001] LEGISLATIVE INTENT.

This chapter is intended to protect the health and general welfare by providing a means for the development and protection of the natural resource of groundwater in an orderly, healthful, and reasonable manner. [156A.01]

## Sec. 2. [103I.005] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this chapter apply to this chapter.

Subd. 2. BORING. "Boring" means a hole or excavation that is not used to extract water and includes exploratory borings, environmental bore holes, and test holes.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of health.

Subd. 4. DEPARTMENT. "Department" means the department of health.

Subd. 5. DRIVE POINT WELL. "Drive point well" means a well constructed by forcing a pointed well screen, attached to sections of pipe, into the ground with the screen and casing forced or driven into the ground with a hammer, maul, or weight.

Subd. 6. ELEVATOR SHAFT. "Elevator shaft" means a bore hole, jack hole, drilled hole, or excavation constructed to install an elevator shaft or hydraulic cylinder.

Subd. 7. ELEVATOR SHAFT CONTRACTOR. "Elevator shaft contractor" means a person with an elevator shaft contractor's license issued by the commissioner.

Subd. 8. ENVIRONMENTAL BORE HOLE. "Environmental bore hole" means a hole or excavation in the ground that enters or goes through a water bearing layer and is used to monitor or measure physical, chemical, radiological, or biological parameters without extracting water. An environmental bore hole also includes bore holes constructed for vapor recovery or venting systems. An environmental bore hole does not include a well, elevator shaft, exploratory boring, or monitoring well.

Subd. 9. EXPLORATORY BORING. "Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel,

New language is indicated by underline, deletions by ~~strikeout~~.

cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum. [156A.02 s. 5]

Subd. 10. EXPLORER. "Explorer" means a person who has the right to drill an exploratory boring. [156A.02 s. 4]

Subd. 11. GROUNDWATER THERMAL EXCHANGE DEVICE. "Groundwater thermal exchange device" means a heating or cooling device that depends on extraction and reinjection of groundwater from an independent aquifer to operate. [156A.02 s. 6]

Subd. 12. LIMITED WELL CONTRACTOR. "Limited well contractor" means a person with a limited well contractor's license issued by the commissioner.

Subd. 13. LIMITED WELL SEALING CONTRACTOR. "Limited well sealing contractor" means a person with a limited well sealing contractor's license issued by the commissioner.

Subd. 14. MONITORING WELL. "Monitoring well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed to extract groundwater for physical, chemical, or biological testing. "Monitoring well" includes a groundwater quality sampling well.

Subd. 15. MONITORING WELL CONTRACTOR. "Monitoring well contractor" means a person who is registered by the commissioner to construct monitoring wells.

Subd. 16. PERSON. "Person" means an individual, firm, partnership, association, or corporation.

Subd. 17. PROVISIONS OF THIS CHAPTER. "Provisions of this chapter" means the sections in this chapter and rules adopted by the commissioner under this chapter.

Subd. 18. SEALED WELL CERTIFICATE. "Sealed well certificate" means the certificate containing information required under section 19.

Subd. 19. TEST HOLE. "Test hole" means a boring that does not enter a water-bearing layer of soil.

Subd. 20. VERTICAL HEAT EXCHANGER. "Vertical heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed piping system installed vertically in the ground to transfer heat to or from the surrounding earth. [156A.02 s. 7]

Subd. 21. WELL. "Well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, or acquisition of groundwater.

New language is indicated by underline, deletions by ~~strikeout~~.

Well includes monitoring wells, drive point wells, and dewatering wells. "Well" does not include:

(1) an excavation by backhoe, or otherwise for temporary dewatering of groundwater for nonpotable use during construction, if the depth of the excavation is 25 feet or less;

(2) an excavation made to obtain or prospect for oil, natural gas, minerals, or products of mining or quarrying;

(3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products;

(4) an excavation for nonpotable use for wildfire suppression activities; or

(5) borings. [156A.02 s.1]

Subd. 22. WELL CERTIFICATE. "Well certificate" means a certificate containing the requirements of section 14, subdivision 1, paragraph (e).

Subd. 23. WELL CONTRACTOR. "Well contractor" means a person with a well contractor's license. [156A.02 s. 2]

Subd. 24. WELLHEAD PROTECTION AREA. "Wellhead protection area" means the surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field.

## JURISDICTION OVER WELLS AND BORINGS

### Sec. 3. [103L.101] POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.

Subdivision 1. POWERS OF COMMISSIONER. The commissioner has the powers reasonable and necessary to effectively exercise the authority granted by this chapter. [156A.05 s. 1]

Subd. 2. DUTIES. The commissioner shall:

(1) regulate the drilling, construction, and sealing of wells;

(2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing unconventional wells such as drive point wells or dug wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

New language is indicated by underline, deletions by strikeout.

(5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells and elevator shafts within the state; and

(6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

Subd. 3. PROCEDURES FOR PERMITS. The commissioner shall establish procedures for application, approval, and issuance of permits by rule.

Subd. 4. INSPECTIONS BY COMMISSIONER. The commissioner may inspect, collect water samples, and have access, at all reasonable times, to a well site, including wells drilled, sealed, or repaired. [156A.05 s. 3]

Subd. 5. COMMISSIONER TO ADOPT RULES. The commissioner shall adopt rules including:

(1) issuance of licenses for:

(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;

(ii) persons constructing unconventional wells such as drive points or dug wells;

(iii) persons sealing wells; and

(iv) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;

(2) issuance of registration for monitoring well contractors;

(3) establishment of conditions for examination and review of applications for license and registration;

(4) establishment of conditions for revocation and suspension of license and registration;

(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;

(6) establishment of a system for reporting on wells drilled and sealed;

(7) modification of fees prescribed in this chapter, according to the procedures for setting fees in section 16A.128;

(8) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination, for which the commissioner may adopt emergency rules;

(9) establishment of wellhead protection measures for wells serving public water supplies;

New language is indicated by underline, deletions by ~~strikeout~~.

(10) establishment of procedures to coordinate collection of well data with other state and local governmental agencies; and

(11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for geologic and water resource mapping. [156A.05 s. 2]

Subd. 6. FEES FOR VARIANCES. The commissioner shall charge a non-refundable application fee of \$150 to cover the administrative cost of processing a request for a variance or modification of rules under Minnesota Rules, part 4725.0400, and for a variance relating to well construction, the nonrefundable application fee shall be the same amount as the well permit fee.

**Sec. 4. [103I.103] WASTE PREVENTION MAY BE REQUIRED.**

The commissioner of natural resources may require the owners of wells, especially flowing artesian wells, to prevent waste to conserve the groundwater water supply of the state. [105.51 s. 1]

**Sec. 5. [103I.105] ADVISORY COUNCIL ON WELLS AND BORINGS.**

(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of 15 voting members. Of the 15 voting members:

(1) one member must be from the department of health, appointed by the commissioner of health;

(2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;

(3) one member must be a member of the Minnesota geological survey of the University of Minnesota, appointed by the director;

(4) one member must be a licensed exploratory borer;

(5) one member must be a licensed elevator shaft contractor;

(6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;

(7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;

(8) one member must be a monitoring well contractor; and

(9) six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) An appointee of the well drilling industry may not serve more than two consecutive terms.

(c) The appointees to the advisory council from the well drilling industry must:

(1) have been residents of this state for at least three years before appointment; and

(2) have at least five years' experience in the well drilling business.

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply. [156A.06]

**Sec. 6. [103I.111] LOCAL AUTHORITY OVER WELLS AND BORINGS.**

**Subdivision 1. DELEGATION OF DUTIES OF COMMISSIONER.** (a) The commissioner of health may enter into an agreement with a board of health to delegate all or part of the inspection, reporting, and enforcement duties authorized under provisions of this chapter pertaining to permitting, construction, repair, and sealing of wells and elevator shafts. [145A.07 s. 1]

(b) A board of health may delegate its powers and duties to other boards of health within its jurisdiction. An agreement to delegate powers and duties of a board of health must be approved by the commissioner and is subject to subdivision 3. [145A.07 s. 2]

**Subd. 2. DELEGATION AGREEMENTS.** (a) Agreements authorized under this section must be in writing and signed by the delegating authority and the designated agent.

(b) The agreement must list criteria the delegating authority will use to determine if the designated agent's performance meets appropriate standards and is sufficient to replace performance by the delegating authority.

(c) The agreement may specify minimum staff requirements and qualifications, set procedures for the assessment of costs, and provide for termination procedures if the delegating authority finds that the designated agent fails to comply with the agreement.

(d) A designated agent must not perform licensing, inspection, or enforcement duties under the agreement in territory outside its jurisdiction unless approved by the governing body for that territory through a separate agreement.

(e) The scope of agreements established under this section is limited to duties and responsibilities agreed upon by the parties. The agreement may provide for automatic renewal and for notice of intent to terminate by either party.

New language is indicated by underline, deletions by ~~strikeout~~.

(f) During the life of the agreement, the delegating authority shall not perform duties that the designated agent is required to perform under the agreement, except inspections necessary to determine compliance with the agreement and this section or as agreed to by the parties.

(g) The delegating authority shall consult with, advise, and assist a designated agent in the performance of its duties under the agreement.

(h) This section does not alter the responsibility of the delegating authority for the performance of duties specified in law. [145A.07 s. 3]

Subd. 3. PREEMPTION UNLESS DELEGATION. Notwithstanding any other law, a political subdivision may not regulate the permitting, construction, repair, or sealing of wells or elevator shafts unless the commissioner delegates authority under subdivisions 1 and 2.

Subd. 4. LOCAL AUTHORITY OVER EXPLORATORY BORING. This chapter does not limit the authority of a local unit of government to prohibit mineral exploration within its boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, that is consistent with other law. [156A.075]

Subd. 5. LOCAL GOVERNMENT REGULATION OF OPEN WELLS AND RECHARGING BASINS. (a) The governing body of a county, municipality, statutory or home rule charter city, or town may regulate open wells and recharging basins and may provide penalties for the violations. The use or maintenance of an open well or recharging basin that endangers the safety of a considerable number of persons may be defined as a public nuisance and abated as a public nuisance. [471.92 s. 1]

(b) The abatement of the public nuisance may include covering the open well or recharging basin or surrounding the open well or recharging basin with a protective fence. [471.92 s. 2]

Subd. 6. UNSEALED WELLS ARE PUBLIC HEALTH NUISANCES. A well that is required to be sealed under section 16 but is not sealed is a public health nuisance. A county may abate the unsealed well with the same authority of a board of health to abate a public health nuisance under section 145A.04, subdivision 8.

Subd. 7. LOCAL LICENSE OR REGISTRATION FEES PROHIBITED. (a) A political subdivision may not require a licensed well contractor to pay a license or registration fee.

(b) The commissioner of health must provide a political subdivision with a list of licensed well contractors upon request. [156A.07 s. 9]

Subd. 8. MUNICIPAL REGULATION OF DRILLING. A municipality may regulate all drilling, except well, elevator shaft, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to

New language is indicated by underline, deletions by ~~strikeout~~.

subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for the drilling. [469.141 s. 2]

Sec. 7. [103L.113] **APPLICABILITY TO MINING ACTIVITIES.**

The provisions of this chapter do not apply to mining activities within a mining area described in a permit to mine issued under section 93.481 except a well or boring from which water is withdrawn.

**WELL CONSTRUCTION AND OWNERSHIP**

Sec. 8. [103L.115] **COMPLIANCE WITH THIS CHAPTER REQUIRED.** A person may not construct, repair, or seal a well or boring, except as provided under the provisions of this chapter.

Sec. 9. [103L.205] **WELL CONSTRUCTION.**

Subdivision 1. NOTIFICATION REQUIRED. (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 10. If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

(b) The property owner where a well is to be located must file the well notification with the commissioner.

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells.

(d) The owner of a drive point well must notify the commissioner of the installation and location of the well. The owner must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.

(e) A person may not construct a monitoring well or dewatering well until a permit for the monitoring well is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.

Subd. 2. EMERGENCY PERMIT EXEMPTIONS. The commissioner may adopt rules that modify the procedures for filing a well notification if conditions occur that:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) endanger the public health and welfare or cause a need to protect the groundwater; or

(2) require the monitoring well contractor or well contractor to begin constructing a well before obtaining a permit.

Subd. 3. MAINTENANCE PERMIT. (a) Except as provided under paragraph (b), a well that is not in use and is inoperable must be sealed or have a maintenance permit.

(b) If a monitoring well or a dewatering well is not sealed by 14 months after completion of construction, the owner of the property on which the well is located must obtain and annually renew a maintenance permit from the commissioner.

Subd. 4. LICENSE REQUIRED. (a) Except as provided in paragraph (b), (c), (d), or (e), a person may not drill, construct, or repair a well unless the person has a well contractor's license in possession. [156A.03 s. 2]

(b) A person may construct a monitoring well if the person is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering, or hydrologists or hydrogeologists certified by the American Institute of Hydrology, any professional engineer registered with the board of architecture, engineering, land surveying, or landscape architecture, or a geologist certified by the American Institute of Professional Geologists, and registers with the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited well contractor's license in possession:

- (1) modify or repair well casings or well screens;
- (2) construct drive point wells; or
- (3) install well pumps or pumping equipment.

(d) A person may do the following work with a limited well sealing contractor's license in possession:

- (1) modify or repair well casings or well screens;
- (2) construct drive point wells;
- (3) install well pumps or pumping equipment; or
- (4) seal wells.

(e) Notwithstanding other provisions of this chapter requiring a license, a license is not required for a person who complies with the other provisions of this chapter if the person is:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or

(2) an individual who performs labor or services for a well contractor in connection with the construction or repair of a well or sealing a well at the direction and at the personal supervision of a well contractor.

**Subd. 5. AT-GRADE MONITORING WELLS.** At-grade monitoring wells are authorized and may be installed for the purpose of evaluating groundwater conditions or for use as a leak detection device. The at-grade completion must comply with rules of the commissioner. The at-grade monitoring wells must be installed with an impermeable double locking cap and must be labeled monitoring wells.

**Subd. 6. DISTANCE REQUIREMENTS FOR SOURCES OF CONTAMINATION.** A person may not place, construct, or install an actual or potential source of contamination any closer to a well than the isolation distances prescribed by the commissioner by rule unless a variance has been prescribed by rule.

**Subd. 7. WELL IDENTIFICATION LABEL REQUIRED.** After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number, the depth of the well, the name of the person who constructed the well, and the date the well was constructed.

**Subd. 8. MONITORING WELL CONTRACT REQUIREMENT.** A person may not construct a monitoring well until the owner of the property on which the well is located and the well owner sign a written contract that describes the nature of the work to be performed, the estimated cost of the work, and provisions for sealing the monitoring well.

**Subd. 9. REPORT OF WORK.** (a) Within 30 days after completion or sealing of a well, the person doing the work must submit a verified report to the commissioner on forms provided by the commissioner.

(b) The report must contain:

(1) the name and address of the owner of the well and the actual location of the well;

(2) a log of the materials and water encountered in connection with drilling the well, and pumping tests relating to the well; and

(3) other information the commissioner may require concerning the drilling or sealing of the well.

(c) Within 30 days after receiving the report, the commissioner shall send a copy of the report to the commissioner of natural resources, the local soil and water conservation district where the well is located, and to the director of the Minnesota geological survey.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. [103I.208] WELL NOTIFICATION FILING FEES AND PERMIT FEES.

Subdivision 1. WELL NOTIFICATION FEE. The well notification fee to be paid by a property owner is:

(1) for a new well drilled that produces less than 50 gallons a minute based on the actual capacity of the pump installed, \$50; and

(2) for a new well that produces 50 gallons a minute or more based on the actual capacity of the pump installed, \$100.

Subd. 2. PERMIT FEE. The permit fee to be paid by a property owner is:

(1) for a well that is inoperable or disconnected from a power supply under a maintenance permit, \$50;

(2) for construction of a monitoring well, \$50;

(3) for monitoring wells owned by a state or federal agency or a local unit of government as defined in article 2, section 9, subdivision 4, there is no fee;

(4) annually for a monitoring well that is unsealed under a maintenance permit, \$50;

(5) for monitoring wells used as a leak detection device at a single motor fuel retail outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is \$50 per site regardless of the number of wells constructed on the site and the annual fee for a maintenance permit for unsealed monitoring wells is \$50 per site regardless of the number of monitoring wells located on site;

(6) for a groundwater thermal exchange device, \$50;

(7) for a vertical heat exchanger, in addition to the permit fee for wells, \$50;

(8) for construction of the dewatering well, \$50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for \$500; and

(9) annually for a dewatering well that is unsealed under a maintenance permit, \$25 for each well, except a dewatering project comprising more than ten wells shall be issued a single permit for wells recorded on the permit for \$250.

Sec. 11. [103I.211] DRILLING RECORDS.

(a) A person, firm, or corporation that provides the means of appropriating groundwater by drilling, boring, or another manner must file a verified statement with the director of the division of waters of the department of natural resources containing the log of the materials and water encountered and related water pumping tests.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The statements are private data and can be used only by the division of waters of the department of natural resources for scientific study. The study's result may be public information.

(c) The commissioner of natural resources may exclude from the requirement to file statements those whose operations are of a type that would not yield significant scientific information. [105.51 s. 2]

**Sec. 12. [103I.221] PLASTIC CASINGS.**

Subdivision 1. PLASTIC CASINGS ALLOWED. The use of plastic casings in wells is expressly authorized.

Subd. 2. RULES. The commissioner may adopt rules relating to the installation of plastic well casing.

**Sec. 13. [103I.231] COMMISSIONER MAY ORDER REPAIRS.**

(a) The commissioner may order the owner of a well to take remedial measures, including making repairs, reconstructing, or sealing the well according to the rules of the commissioner. The order may be issued if the commissioner determines, based on inspection of the water or the well site or an analysis of water from the well, that the well:

(1) is contaminated;

(2) is required to be sealed under this chapter and has not been sealed according to the rules of the commissioner;

(3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;

(4) is a health or safety hazard; or

(5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.

(b) The order of the commissioner may be enforced in an action to seek compliance brought by the commissioner in the district court of the county where the well is located. [156A.05 s. 4]

**Sec. 14. [103I.235] SALE OF PROPERTY WHERE WELLS ARE LOCATED.**

Subdivision 1. DISCLOSURE OF WELLS TO BUYER. (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and the location of all known wells on the property, including the legal description, and the quartile, section, township, range, and county, and a map drawn from available information showing the location of the wells to the extent practicable. In the disclosure, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) At the time of closing of the sale, the disclosure information must be provided on a well certificate signed by the seller of the property or a person authorized to act on behalf of the seller.

(c) If a seller fails to provide a well certificate, a buyer, or a person authorized to act on behalf of the buyer, may sign a well certificate based on the information provided on the disclosure required by this section or based on other available information.

(d) A county recorder or registrar of titles may not record a deed, instrument, or writing for which a certificate of value is required under section 272.115, or any deed or contract for deed from a governmental body exempt from the payment of state deed tax, unless the well certificate required by this subdivision is filed with the county recorder or registrar of titles and the filing fee paid under section 357.18. The county recorder or registrar of titles shall transmit the well certificate to the commissioner of health within 15 days after receiving the well certificate.

(e) The commissioner in consultation with county recorders shall prescribe the form for a well certificate and provide well certificate forms to county recorders and registrars of titles and other interested persons.

Subd. 2. LIABILITY FOR FAILURE TO DISCLOSE. Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence of a well at the time of sale and knew of or had reason to know of the existence of a well is liable to the buyer for costs and reasonable attorney fees relating to the sealing of a well. The action must be commenced by the buyer within six years after the date the buyer purchased the real property where the well is located.

#### Sec. 15. [103I.241] ACTION FOR WELL CONTAMINATION.

Subdivision 1. OWNER'S CAUSE OF ACTION FOR WELL CONTAMINATION. The owner of real property where a well is located has a cause of action for civil damages against a person whose action or inaction caused contamination of a well. The property owner may commence an action for a period of six years after the owner knows or becomes aware of the contamination of the well.

Subd. 2. COURT AWARDS. The court may award damages, reasonable attorney fees, and costs and disbursements.

#### WELL SEALING

#### Sec. 16. [103I.301] WELL AND SEALING REQUIREMENTS.

Subdivision 1. WELLS. (a) A well owner must have a well sealed if:

(1) the well is contaminated;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the well was attempted to be sealed but was not sealed according to the provisions of this chapter; or

(3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

(b) A well that is inoperable must be sealed unless the well owner has a maintenance permit for the well.

(c) The well owner must have a well contractor or limited well sealing contractor seal a well.

Subd. 2. MONITORING WELLS. The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, limited well sealing contractor, or a monitoring well contractor seal the monitoring well.

Subd. 3. DEWATERING WELLS. (a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.

(b) A well contractor or limited well sealing contractor shall seal the dewatering well.

Subd. 4. SEALING PROCEDURES. Wells, monitoring wells, and dewatering wells must be sealed according to rules adopted by the commissioner.

Subd. 5. SEALING OF SIX-INCH OR LARGER WELLS. The owner of a well with a casing six inches or more in inside diameter may not seal the well, cover or otherwise render the well inaccessible for inspection, or permanently remove the pumps from the well without notifying the commissioner of natural resources and complying with the commissioner's recommendations. The commissioner of natural resources may make recommendations and impose conditions as the commissioner determines to be advisable in the public interest. The commissioner of natural resources, or an authorized agent of the commissioner, must be granted access at reasonable times to inspect the site of a well that has been sealed, or for which notice of sealing has been given under this subdivision. [105.51 s. 3]

#### **Sec. 17. [103I.311] IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.**

Subdivision 1. IDENTIFICATION OF WELLS. The commissioner of natural resources in cooperation with other state agencies must identify the location and status of wells and abandoned wells located on state property.

Subd. 2. PLAN AND APPROPRIATION REQUEST FOR WELL SEALING. In each budget year of a biennium, the commissioner must present a plan and an appropriation request to properly seal wells on state property.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 3. PROHIBITION ON STATE LAND PURCHASED WITHOUT WELL IDENTIFICATION.** The state may not purchase or sell real property or an interest in real property without identifying the location of all wells whether in use, not in use, or sealed on the property and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. The sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with.

**Sec. 18. [103I.315] ORDERS TO SEAL WELLS.**

**Subdivision 1. ORDER TO SEAL WELL.** The commissioner may order a property owner to seal a well if:

(1) the commissioner determines that without being sealed the well is an imminent threat to public health or public safety;

(2) the well is required to be sealed under section 16; or

(3) a well is a monitoring well or dewatering well and by 14 months after construction of the well, the owner has not obtained a maintenance permit, or after a maintenance permit has been issued the owner has not renewed a maintenance permit.

**Subd. 2. FAILURE OF OWNER TO SEAL WELL.** If the property owner fails to seal a well in the time provided in the commissioner's order, the commissioner may enter the property and have the well sealed. The property owner is liable for and must pay the costs of sealing the well.

**Sec. 19. [103I.321] SEALED WELL CERTIFICATES.**

**Subdivision 1. COUNTY ISSUANCE.** A county must issue a sealed well certificate prescribed by the commissioner of health in consultation with county recorders for wells that are sealed in accordance with this chapter.

**Subd. 2. RULES.** The commissioner may adopt rules prescribing a procedure to determine that wells are properly sealed.

**Sec. 20. [103I.325] LANDOWNER SEALED WELL LIABILITY.**

**Subdivision 1. CERTIFICATE FILING REQUIRED.** A landowner must file the sealed well certificate with the county recorder or registrar of titles and pay the filing fee under section 357.18 where the sealed well is located.

**Subd. 2. LIABILITY AFTER SEALING.** The owner of a well that has had a sealed well certificate filed with the commissioner of health and the county recorder or registrar of titles where the well is located is not liable for contamination of groundwater from the well that occurs after the well has been sealed, if the owner has not disturbed or disrupted the sealed well.

**Sec. 21. [103I.331] WELL SEALING COST-SHARE PROGRAM.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. COUNTY COST-SHARE SEALING PROGRAM. (a) The board of water and soil resources may allocate funds to counties selected under subdivision 2 to be used for a well sealing program to share the cost of sealing wells according to the priority under subdivision 3.

(b) A county may contract for the administration of the well sealing program under this section with another local unit of government.

(c) The county must consult with local health boards, soil and water conservation districts, planning and zoning departments, and other appropriate organizations and local government units during program implementation.

(d) To encourage landowner participation in the program, the county shall:

(1) publish information in newspapers of general circulation, regarding availability of state funds to share the cost of sealing wells; and

(2) invite the public to report to the county on the existence of wells that are not sealed.

Subd. 2. CRITERIA FOR SELECTING COUNTIES FOR WELL SEALING. (a) The board of water and soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

(1) diversity of well construction;

(2) diversity of geologic conditions;

(3) current use of affected aquifers;

(4) diversity of land use; and

(5) aquifer susceptibility to contamination by unsealed wells.

(b) After July 1, 1991, only well sealings that are a part of, or responsive to, the priority actions identified in an approved comprehensive local water plan, as defined in article 2, section 9, subdivision 3, are eligible for assistance.

Subd. 3. WELL SEALING PRIORITIES. The board of water and soil resources, and the commissioner of health after consultation with local water planning authorities, shall establish priorities for sealing wells that are not an imminent threat to public health or public safety based on the following criteria:

(1) well construction, depth, and condition;

(2) importance of an aquifer as public and private water supply source;

(3) proximity to known or potential point or nonpoint contamination sources;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) current contamination of the well or aquifer;

(5) susceptibility of an aquifer to contamination by wells that are not sealed;

(6) limited availability of alternative sources of drinking water;

(7) anticipated changes in land or water use;

(8) unique conditions such as construction, rehabilitation, or demolition areas;

(9) potential use of the well as a monitoring well; and

(10) the danger to humans and animals of falling into the well.

**Subd. 4. LANDOWNER WELL SEALING CONTRACTS.** (a) A county, or contracted local unit of government, may contract with landowners to share the cost of sealing priority wells in accordance with criteria established by the board of water and soil resources.

(b) The county must use the funds allocated from the board of water and soil resources to pay up to 75 percent, but not more than \$2,000 of the cost of sealing priority wells.

(c) A well sealing contract must provide that:

(1) sealing is done in accordance with this chapter and rules of the commissioner of health relating to sealing of unused wells;

(2) payment is made to the landowner, after the well is sealed by a contractor licensed under this chapter;

(3) a sealed well certificate will be issued to the landowner after sealing of the well is completed; and

(4) the landowner must file a copy of the sealed well certificate and a copy of the well record with the commissioner of health.

**Subd. 5. REPORTS.** (a) The county shall make an annual report to the board of soil and water resources by February 15 of each year on the status of the well sealing grant program in the county including the number, location, and cost for each well sealed.

(b) The board of water and soil resources in cooperation with the commissioner of health shall make annual reports to the legislature on the status of expenditures and well sealings.

**Subd. 6. REPEALER.** This section is repealed effective June 30, 1995.

**Sec. 22. [1031.335] FUNDING FOR PERSONS TO SEAL WELLS.**

**Subdivision 1. APPLICATION.** A property owner who desires to seal a

New language is indicated by underline, deletions by ~~strikeout~~.

well may apply to the board of water and soil resources for the board to provide funds and seal the well.

Subd. 2. CRITERIA FOR SEALING. The board of water and soil resources shall adopt criteria for accepting applications to seal wells for property owners applying under subdivision 1.

Subd. 3. COLLECTION AND ENFORCEMENT OF COSTS. If the applications are accepted, the costs of sealing become a governmental services lien as provided in section 23. The board of water and soil resources must enter a written agreement to collect the costs of sealing the well in a manner provided under section 23, subdivision 3. If the costs are not paid according to the agreement, the board of water and soil resources may enforce the lien in any manner provided under section 23, subdivisions 2 and 3.

**Sec. 23. [103L341] COLLECTION AND ENFORCEMENT OF WELL SEALING COSTS.**

Subdivision 1. LIEN FOR SEALING COSTS. The commissioner and the board of water and soil resources have a governmental services lien under section 514.67 for the costs of sealing a well that the commissioner or board has contracted to be sealed under section 18, subdivision 2; 21; or 22. The lien attaches to the real property where the well is located. The lien is perfected by filing the lien with the county recorder or registrar of titles where the well and property are located and serving or mailing by return receipt a copy of the lien to the property owner.

Subd. 2. ENFORCEMENT OF LIEN. The commissioner or the board of water and soil resources may enforce the lien in the manner provided for a judgment lien under chapter 550 or certify the amount to the county auditor, which must be assessed against the property and collected in the same manner as real estate taxes.

Subd. 3. ASSESSMENT OF INSTALLMENTS. (a) In lieu of certifying the entire amount to be collected, the commissioner or the board of water and soil resources may have the amount due assessed in seven or less equal annual installments plus interest due at the rate determined by the state court administrator for judgments under section 549.09.

(b) The interest due is an additional perfected lien on the property without further action by the commissioner or the board of water and soil resources.

(c) The interest and the installment due must be entered on the tax lists for the year and collected in the same manner as real estate taxes for that year by collecting one-half of the total of the installment and interest with and as part of the real estate taxes.

Subd. 4. SATISFACTION OF LIEN. The amount due and interest of a lien under this section may be paid at any time. When the amount of the lien including accrued interest is paid, the commissioner or board must execute a satisfaction of the lien and record the satisfaction with the county recorder or registrar of titles where the lien was filed.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. APPROPRIATION OF RECOVERED COSTS. Costs of sealing wells recovered from property owners shall be deposited in the state treasury and credited to the account from which the amounts were originally appropriated. The amounts recovered by the board of water and soil resources are continuously appropriated to the board for sealing wells.

#### ELEVATOR SHAFT BORINGS

##### Sec. 24. [103I.401] ELEVATOR SHAFT BORINGS.

Subdivision 1. PERMIT REQUIRED. (a) A person may not construct an elevator shaft until a permit for the hole or excavation is issued by the commissioner.

(b) The fee for excavating holes for the purpose of installing elevator shafts is \$50 for each hole.

(c) The elevator shaft permit preempts local permits except local building permits, and counties and home rule charter or statutory cities may not require a permit for elevator shaft holes or excavations.

Subd. 2. LICENSE REQUIRED. A person may not construct an elevator shaft unless the person possesses a well contractor's license or an elevator shaft contractor's license issued by the commissioner.

Subd. 3. SEALING. A well contractor or elevator shaft contractor must seal a hole or excavation that is no longer used for an elevator shaft. The sealing must be done according to rules adopted by the commissioner.

Subd. 4. REPORT. Within 30 days after completion or sealing of a hole or excavation for an elevator shaft, the person doing the work must submit a report to the commissioner on forms provided by the commissioner.

#### ENVIRONMENTAL BORE HOLES

##### Sec. 25. [103I.451] ENVIRONMENTAL BORE HOLES.

An environmental bore hole must be constructed, sealed, and reported as prescribed by rule of the commissioner by a well contractor or a monitoring well contractor.

#### LICENSING AND REGISTRATION

##### Sec. 26. [103I.501] LICENSING AND REGULATION OF WELLS AND BORINGS.

(a) The commissioner shall regulate and license:

(1) drilling, constructing, and repair of wells;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) sealing of wells;

(3) installing of well pumps and pumping equipment;

(4) excavating, drilling, and sealing of holes for the installation of elevator shafts and hydraulic cylinders; and

(5) construction and sealing of environmental bore holes. [156A.03 s. 1]

(b) The commissioner shall examine and license well contractors, limited well contractors, and elevator shaft contractors, and examine and register monitoring well contractors.

(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring. [156A.03 s. 1]

**Sec. 27. [103I.505] RECIPROCITY OF LICENSES.**

Subdivision 1. RECIPROCITY AUTHORIZED. The commissioner may issue a license or register a person under this chapter, without giving an examination, if the person is licensed or registered in another state and:

(1) the requirements for licensing or registration under which the well contractor was licensed or registered do not conflict with this chapter;

(2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and

(3) equal reciprocal privileges are granted to licensees of this state.

Subd. 2. LICENSE FEE REQUIRED. A well contractor must apply for the license and pay the fees under the provisions of this chapter to receive a license under this section.

**Sec. 28. [103I.515] LICENSES NOT TRANSFERABLE.**

A license or registration issued under this chapter is not transferable.

**Sec. 29. [103I.521] FEES DEPOSITED WITH STATE TREASURER.**

Fees collected for licenses or registration under this chapter shall be deposited in the state treasury.

**Sec. 30. [103I.525] WELL CONTRACTOR'S LICENSE.**

Subdivision 1. APPLICATION. (a) A person must file an application and application fee with the commissioner to apply for a well contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. APPLICATION FEE. The application fee for a well contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. EXAMINATION. After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. ISSUANCE OF LICENSE. If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.

Subd. 5. BOND. (a) As a condition of being issued a well contractor's license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. LICENSE FEE. The fee for a well contractor's license is \$250.

Subd. 7. VALIDITY. A well contractor's license is valid until the date prescribed in the license by the commissioner.

Subd. 8. RENEWAL. (a) A licensee must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

Subd. 9. LATE RENEWAL APPLICATION. If a licensee submits a renewal application after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, and late fee are submitted.

### Sec. 31. [1031.531] LIMITED WELL CONTRACTOR'S LICENSE.

Subdivision 1. APPLICATION. (a) A person must file an application and an application fee with the commissioner to apply for a limited well contractor's license.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. APPLICATION FEE. The application fee for a limited well contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. EXAMINATION. After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. ISSUANCE OF LICENSE. If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well contractor's license.

Subd. 5. BOND. (a) As a condition of being issued a limited well contractor's license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. LICENSE FEE. The fee for a limited well contractor's license is \$50.

Subd. 7. VALIDITY. A limited well contractor's license is valid until the date prescribed in the license by the commissioner.

Subd. 8. RENEWAL. (a) A person must file an application and a renewal application fee to renew the limited well contractor's license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

Subd. 9. LATE RENEWAL APPLICATION. If a licensee submits a renewal application after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the licensee may not conduct activities authorized by the limited well contractor's license until the renewal application, renewal application fee, and late fee are submitted.

**Sec. 32. [1031.533] LIMITED WELL SEALING CONTRACTOR'S LICENSE.**

Subdivision 1. APPLICATION. (a) A person must file an application and an application fee with the commissioner to apply for a limited well sealing contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. APPLICATION FEE. The application fee for a limited well sealing contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. EXAMINATION. After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. ISSUANCE OF LICENSE. If an applicant passes the examination and meets qualifications as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well sealing contractor's license.

Subd. 5. BOND. (a) As a condition of being issued a limited well sealing contractor's license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. LICENSE FEE. The fee for a limited well sealing contractor's license is \$50.

Subd. 7. VALIDITY. A limited well sealing contractor's license is valid until the date prescribed in the license by the commissioner.

Subd. 8. RENEWAL. (a) A person must file an application and a renewal application fee to renew the limited well sealing contractor's license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

Subd. 9. LATE RENEWAL APPLICATION. If a licensee submits a renewal application after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the limited well sealing contractor's license until the renewal application, renewal application fee, and late fee are submitted.

**Sec. 33. [1031.535] ELEVATOR SHAFT CONTRACTOR'S LICENSE.**

Subdivision 1. APPLICATION. (a) An individual must file an application and application fee with the commissioner to apply for an elevator shaft contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. APPLICATION FEE. The application fee for an elevator shaft contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. EXAMINATION. After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. ISSUANCE OF LICENSE. If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue an elevator shaft contractor's license to the applicant.

Subd. 5. BOND. (a) As a condition of being issued an elevator shaft contractor's license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. LICENSE FEE. The fee for an elevator shaft contractor's license is \$50.

Subd. 7. VALIDITY. An elevator shaft contractor's license is valid until the date prescribed in the license by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 8. RENEWAL. (a) A person must file an application and a renewal application fee to renew the license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

Subd. 9. LATE RENEWAL APPLICATION. If a licensee submits a renewal application after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

(2) the licensee may not conduct activities authorized by the elevator shaft contractor's license until the renewal application, renewal application fee, and late fee are submitted.

#### Sec. 34. [103I.54I] MONITORING WELL CONTRACTORS.

Subdivision 1. INITIAL REGISTRATION AFTER DECEMBER 31, 1990. After December 31, 1990, a person seeking initial registration as a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.

Subd. 2. VALIDITY. A monitoring well contractor's registration is valid until the date prescribed in the registration by the commissioner.

Subd. 3. BOND. (a) As a condition of being issued a monitoring well contractor's registration, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 4. RENEWAL. (a) A person must file an application and a renewal application fee to renew the registration by the date stated in the registration.

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

Subd. 5. LATE RENEWAL APPLICATION. If a registered person submits a renewal application after the required renewal date:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) the registered person must include an additional late fee set by the commissioner under section 16A.128; and

(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, and late fee are submitted.

**Sec. 35. [1031.545] REGISTRATION OF DRILLING MACHINES REQUIRED.**

Subdivision 1. DRILLING MACHINE. (a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license or registration under this chapter unless the drilling machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$50 registration fee.

(c) A registration is valid for one year.

Subd. 2. PUMP HOIST. (a) A person may not use a machine such as a pump hoist for an activity requiring a license or registration under this chapter to repair wells, seal wells, or install pumps unless the machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$50 registration fee.

(c) A registration is valid for one year.

**EXPLORATORY BORINGS**

**Sec. 36. [1031.601] EXPLORATORY BORING PROCEDURES.**

Subdivision 1. DEFINITIONS. (a) For the purposes of this section, the following words have the meanings given them.

(b) "Data" includes samples and factual noninterpreted data obtained from exploratory borings and samples including analytical results.

(c) "Parcel" means a government section, fractional section, or government lot.

(d) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer. [156A.071 s. 1]

Subd. 2. LICENSE REQUIRED TO MAKE BORINGS. (a) Except as provided in paragraph (b), a person may not make an exploratory boring without an exploratory borer's license.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) An explorer may designate a responsible individual to supervise and oversee the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual must take and pass an examination relating to construction, location, and sealing of exploratory borings. A professional engineer registered under sections 326.02 to 326.15 or a certified professional geologist is not required to take the examination required in this subdivision but must be licensed to make an exploratory boring. [156A.071 s. 2]

**Subd. 3. NOTIFICATION OF PROJECT CONSTRUCTION.** (a) By 30 days before making an exploratory boring, an explorer must register with the commissioner of natural resources and provide a copy of the registration to the commissioner of health. The registration must include:

(1) the identity of the firm, association, or company engaged in exploratory boring; and

(2) the identification of an agent, including the agent's business address.

(b) The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner of natural resources has reasonable doubts about the explorer's financial ability to comply with requirements of law relating to exploratory boring.

(c) An explorer shall annually register with the commissioner of natural resources while conducting exploratory boring. [156A.071 s. 3]

**Subd. 4. MAP OF BORINGS.** By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the department of transportation, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. [156A.071 s. 4]

**Subd. 5. ACCESS TO DRILL SITES.** The commissioners of health, natural resources, and the pollution control agency, the community health board as authorized under section 145A.04, and their officers and employees shall have access to exploratory boring sites to inspect the drill holes, drilling, and sealing of the borings, and to sample ambient air and drilling waters, and to measure the radioactivity of the waste drill cuttings at the drilling site at the time of observation. [156A.071 s. 5]

**Subd. 6. EMERGENCY NOTIFICATION.** The explorer must promptly notify the commissioners of health, natural resources, and the pollution control agency, and the authorized agent of the commissioner of health of an occurrence during exploratory boring that has a potential for significant adverse health or environmental effects. The explorer must take reasonable action to minimize the adverse effects. [156A.071 s. 6]

**Subd. 7. INSPECTION OF DATA BEFORE SUBMISSION.** The commissioner of health may, if necessary, inspect data before its submission under

New language is indicated by underline, deletions by strikeout.

section 36. The data examined by the commissioner is not public data before it is submitted under section 37. [156A.071 s. 6]

Subd. 8. PERMANENT AND TEMPORARY SEALING PROCEDURES. Exploratory borings must be temporarily or permanently sealed according to rules adopted by the commissioner. [156A.071 s. 7]

Subd. 9. SEALING REPORT. (a) By 30 days after permanent or temporary sealing of an exploratory boring, the explorer must submit a report to the commissioners of health and natural resources.

(b) The report must be on forms provided by the commissioner of health and include:

(1) the location of each drill hole in as large a scale as possible, which is normally prepared as part of the explorer's record;

(2) the type and thickness of overburden and rock encountered;

(3) identification of water bearing formations encountered;

(4) identification of hydrologic conditions encountered;

(5) method of sealing used;

(6) methods of construction and drilling used; and

(7) average scintillometer reading of waste drill cuttings before backfilling of the recirculation pits. [156A.071 s. 8]

### **Sec. 37. [1031.605] SUBMISSION OF DATA FROM EXPLORATORY BORINGS.**

Subdivision 1. REQUIREMENT. Data obtained from exploratory borings must be submitted by the explorer to the commissioner of natural resources as provided in this section. [156A.071 s. 9]

Subd. 2. MINERAL DEPOSIT EVALUATION DATA. (a) In applying for a permit required for activities relating to mineral deposit evaluation, which means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities, but does not include activities intended, by themselves, for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data that, if released, would impair the competitive position of the explorer submitting the data. Data identified must be considered to be not public data.

(b) If requested to disclose the data, the commissioner shall mail notice of the request to the explorer and determine whether release of the data would impair the competitive position of the explorer submitting the data. If the

New language is indicated by underline, deletions by ~~strikeout~~.

commissioner determines that release of the data would impair the competitive position of the explorer submitting the data, the commissioner may not release the data to a person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data.

(c) Data that are classified as not public may not be released by the commissioner until 30 days after mailed notice to the explorer of the commissioner's intention to release the data. The commissioner may not release data to a person engaged in exploration, mining, milling, or related industry pertaining to minerals. If the commissioner determines to release data, the explorer may demand a contested case hearing on the commissioner's determination or may withdraw the permit application and the data may not be released.

(d) Any person aggrieved by the decision of the commissioner may appeal the decision according to chapter 14. [156A.071 s. 9]

Subd. 3. MINE DEVELOPMENT DATA. In applying for a permit required for mine development, which means activities undertaken after mineral deposit evaluation for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others. [156A.071 s. 9]

Subd. 4. EXPLORATION DATA. By six months after termination by the explorer of a lease or other type of exploration agreement on a property the data from the exploration must be submitted to the commissioner of natural resources. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others. [156A.071 s. 9]

Subd. 5. DESIGNATION OF SAMPLES TO BE SUBMITTED. The commissioner of natural resources shall designate the samples to be submitted, and specify where the sample is to be delivered. If an explorer requires certain samples in their entirety, the commissioner of natural resources may waive the requirement for a one-fourth portion of the samples. Samples submitted are property of the state. [156A.071 s. 9]

#### GROUNDWATER THERMAL EXCHANGE DEVICES

### Sec. 38. [103L.621] PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.

Subdivision 1. PERMIT. (a) Notwithstanding any department or agency rule to the contrary, the commissioner shall issue, on request by the owner of the property and payment of the permit fee, permits for the reinjection of water by a properly constructed well into the same aquifer from which the water was drawn for the operation of a groundwater thermal exchange device.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) As a condition of the permit, an applicant must agree to allow inspection by the commissioner during regular working hours for department inspectors.

(c) Not more than 200 permits may be issued for small systems having maximum capacities of 20 gallons per minute or less. The small systems are subject to inspection twice a year.

(d) Not more than ten permits may be issued for larger systems having maximum capacities from 20 to 50 gallons per minute. The larger systems are subject to inspection four times a year.

(e) A person issued a permit must comply with this section for the permit to be valid.

Subd. 2. WATER USE REQUIREMENTS APPLY. Water use permit requirements and penalties under chapter 103F and related rules adopted and enforced by the commissioner of natural resources apply to groundwater thermal exchange permit recipients. A person who violates a provision of this section is subject to enforcement or penalties for the noncomplying activity that are available to the commissioner and the pollution control agency.

Subd. 3. CONSTRUCTION REQUIREMENTS. (a) Withdrawal and reinjection for the groundwater thermal exchange device must be accomplished by a closed system in which the waters drawn for thermal exchange do not have contact or commingle with water from other sources or with polluting material or substances. The closed system must be constructed to allow an opening for inspection by the commissioner.

(b) Wells that are part of a groundwater thermal exchange system may not serve another function, except water may be supplied to the domestic water system if:

(1) the supply is taken from the thermal exchange system ahead of the heat exchange unit; and

(2) the water discharges to a break tank through an air gap that is at least twice the effective diameter of the water inlet to the tank.

(c) A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.

Subd. 4. RULES. The commissioner may adopt rules to administer this section.

#### VERTICAL HEAT EXCHANGERS

##### Sec. 39. [1031.641] VERTICAL HEAT EXCHANGERS.

Subdivision 1. REQUIREMENTS. A person may not drill or construct an

New language is indicated by underline, deletions by ~~strikeout~~.

excavation used to install a vertical heat exchanger unless the person is a well contractor.

Subd. 2. REGULATIONS FOR VERTICAL HEAT EXCHANGERS. Vertical heat exchangers must be constructed, maintained, and sealed under the provisions of this chapter.

Subd. 3. PERMIT REQUIRED. (a) A vertical heat exchanger may not be installed without first obtaining a permit for the vertical heat exchanger from the commissioner. A well contractor must apply for the permit on forms provided by the commissioner and must pay the permit fee.

(b) As a condition of the permit, the owner of the property where the vertical heat exchanger is to be installed must agree to allow inspection by the commissioner during regular working hours of department of health inspectors.

#### UNDERGROUND SPACE DEVELOPMENT

#### Sec. 40. [103I.661] MINED UNDERGROUND SPACE DEVELOPMENT.

Subdivision 1. COMMISSIONER OF NATURAL RESOURCES REVIEW. The commissioners of natural resources and health shall review all project plans that involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed. [469.141 s. 1]

Subd. 2. PERMIT FOR WATER REMOVAL. A mined underground space project involving or affecting the quality and quantity of groundwater may not be developed until a water use permit for the appropriation of waters under chapter 103G has been issued by the commissioner of natural resources. [469.141 s. 4]

#### UNDERGROUND STORAGE OF GAS OR LIQUID

#### Sec. 41. [103I.681] PERMIT FOR UNDERGROUND STORAGE OF GAS OR LIQUID.

Subdivision 1. PERMIT REQUIRED. (a) The state, a person, partnership, association, private or public corporation, county, municipality, or other political subdivision of the state may not displace groundwater in consolidated or unconsolidated formations by the underground storage of a gas or liquid under pressure without an underground storage permit from the commissioners of natural resources and health. [84.57]

(b) The state, a person, a public corporation, county, municipality, or other political subdivision of the state may not store a gas or liquid, except water, below the natural surface of the ground by using naturally occurring rock materials as a storage reservoir without an underground storage permit from the commissioners of health and natural resources. [84.621 s. 1]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. APPLICATION. (a) A person may apply for an underground storage permit by filing an application form with the commissioner of natural resources accompanied by the application fee and maps, plans, and specifications describing the proposed displacement of groundwater and the underground storage of gases or liquids and other data required by the commissioner.

(b) The commissioner of natural resources shall prescribe the application form to apply for an underground storage permit. [84.58 s. 1]

(c) The commissioner of natural resources may require an applicant to demonstrate to the commissioner that the applicant has adequately provided a method to ensure payment of any damages resulting from the operation of a gas or liquid storage reservoir. [84.61]

Subd. 3. HEARING REQUIRED. (a) An underground storage permit allowing displacement of groundwater may not be issued by the commissioner of natural resources or health without holding a public hearing on the issuance of the permit. [84.58 s. 2]

(b) By 20 days after receiving a complete application, the commissioner of natural resources shall set a time and location for the hearing. [84.58 s. 3]

Subd. 4. NOTICE OF HEARING. The hearing notice must:

(1) state the date, place, and time of the hearing;

(2) show the location of groundwater and surface water and property affected by the proposed underground storage;

(3) be published by the applicant, or by the commissioner of natural resources if the proceeding is initiated by the commissioner of natural resources or health, once each week for two successive weeks in a legal newspaper that is published in the county where a part or all of the affected groundwater or surface waters are located; and

(4) be mailed by the commissioner of natural resources to the county auditor and the chief executive official of an affected municipality. [84.58 s. 4]

Subd. 5. PROCEDURE AT HEARING. (a) The hearing must be public and conducted by the commissioner of natural resources or a referee appointed by the commissioner.

(b) Affected persons must have an opportunity to be heard. Testimony must be taken under oath and the parties must have the right of cross-examination. The commissioner of natural resources shall provide a stenographer, at the expense of the applicant, to take testimony and a record of the testimony, and all proceedings at the hearing shall be taken and preserved.

(c) The commissioner of natural resources is not bound by judicial rules of evidence or of pleading and procedure. [84.58 s. 5]

New language is indicated by underline, deletions by strikethrough.

Subd. 6. SUBPOENAS. The commissioner of natural resources or health may subpoena and compel the attendance of witnesses and the production of books and documents material to the purposes of the hearing. Disobedience of a subpoena, or refusal to be sworn, or refusal to answer as a witness, is punishable as contempt in the same manner as a contempt of the district court. The commissioner of natural resources must file a complaint of the disobedience with the district court of the county where the disobedience or refusal occurred. [84.58 s. 6]

Subd. 7. REQUIRED FINDINGS. An order granting a permit for the proposed storage may not be issued unless it contains and is based on a finding stating:

(1) the proposed storage will be confined to geological stratum or strata lying more than 500 feet below the surface of the soil;

(2) the proposed storage will not substantially impair or pollute groundwater or surface water; and

(3) the public convenience and necessity of a substantial portion of the gas-consuming public in the state will be served by the proposed project. [84.60]

Subd. 8. ORDER CONDITIONS. The order granting the permit must contain conditions and restrictions that will reasonably protect:

(1) private property or an interest not appropriated;

(2) the rights of the property owners and owners of an interest in property located within the boundaries of the proposed storage area, or persons claiming under the owners, to explore for, drill for, produce or develop for the recovery of oil or gas or minerals under the property, and to drill wells on the property to develop and produce water; provided that the exploration, drilling, producing, or developing complies with orders and rules of the commissioner of natural resources that protect underground storage strata or formations against pollution and against the escape of gas; and

(3) public resources of the state that may be adversely affected by the proposed project. [84.60]

Subd. 9. PUBLICATION OF FINDINGS, CONCLUSIONS, ORDERS.

(a) The commissioner of natural resources shall mail notice of any findings, conclusions, and orders made after the hearing to:

(1) the applicant;

(2) parties who entered an appearance at the hearing;

(3) the county auditor; and

(4) the chief executive officer of an affected municipality.

New language is indicated by underline, deletions by strikethrough.

(b) The commissioner of natural resources must publish notice of findings, conclusions, and orders made after the hearing at least once each week for two successive weeks in a legal newspaper in the county where a part or all of the proposed project is located. The costs of the publication must be paid by the applicant. [84.59 s. 7]

Subd. 10. APPEAL OF COMMISSIONER'S DETERMINATION. An interested party may appeal the determination of the commissioner of natural resources or health to the court of appeals in accordance with the provisions of chapter 14. [84.59]

Subd. 11. PERMIT FEE SCHEDULE. (a) The commissioner of natural resources or health shall adopt a permit fee schedule under chapter 14. The schedule may provide minimum fees for various classes of permits, and additional fees, which may be imposed subsequent to the application, based on the cost of receiving, processing, analyzing, and issuing the permit, and the actual inspecting and monitoring of the activities authorized by the permit, including costs of consulting services.

(b) A fee may not be imposed on a state or federal governmental agency applying for a permit.

(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. Permit fees received must be deposited in the state treasury and credited to the general fund. The amount of money necessary to pay the refunds is appropriated annually from the general fund to the commissioner of natural resources. [84.59 s. 8]

**Sec. 42. [103I.685] ABANDONMENT OF UNDERGROUND STORAGE PROJECT.**

An underground storage project for which an underground storage permit is granted may not be abandoned, or a natural or artificial opening extending from the underground storage area to the ground surface be filled, sealed, or otherwise closed to inspection, except after written approval by the commissioner of natural resources or health and in compliance with conditions that the commissioners may impose. [84.611]

**Sec. 43. [103I.691] CERTIFICATE OF USE.**

A person may not use a gas or liquid storage reservoir under an underground storage permit unless the right to use the property affected by the project has been acquired and a notice of the acquisition filed with the commissioner of natural resources or health. The commissioner of natural resources or health must issue a certificate approving use of the gas or liquid storage reservoir. [84.62]

New language is indicated by underline, deletions by ~~strikeout~~.

## ENFORCEMENT

## Sec. 44. [103L.701] ADMINISTRATIVE REMEDIES.

Subdivision 1. DENIAL OF LICENSE OR REGISTRATION RENEWAL. (a) The commissioner may deny an application for renewal of a license or registration if the applicant has violated a provision of this chapter.

(b) Failure to submit a well report, well sealing report, or to report an excavation to construct an elevator shaft, or to obtain a well permit before construction is a violation of this chapter and the commissioner may refuse renewal.

Subd. 2. SUSPENSION, REVOCATION OF LICENSE OR REGISTRATION. (a) A license or registration issued under this chapter may be suspended or revoked for violation of provisions of this chapter.

(b) The commissioner may, after providing a person with reasonable notice and a hearing, suspend or revoke the license or registration of the person upon finding that the person has violated a provision of this chapter that applies to the person's license or registration.

Subd. 3. PROCEDURE. Proceedings by the commissioner under this section and review shall be according to chapter 14.

Subd. 4. CORRECTIVE ORDERS. The commissioner may issue corrective orders for persons to comply with the provisions of this chapter.

## Sec. 45. [103I.705] ADMINISTRATIVE PENALTIES.

Subdivision 1. PENALTY AUTHORIZED. The commissioner may impose an administrative penalty under this section against a person who does not comply with an order of the commissioner.

Subd. 2. SEALING WELLS AND ELEVATOR SHAFTS. A well contractor or limited well sealing contractor who seals a well, a monitoring well contractor who seals a monitoring well, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with the water well construction code, shall be assessed an administrative penalty of \$500.

Subd. 3. CONTAMINATION RELATING TO WELL CONSTRUCTION. A well contractor, limited well contractor, or monitoring well contractor working under a corrective order of the commissioner who fails to comply with the rules in the water well construction code relating to location of wells in relation to potential sources of contamination, grouting, materials, or construction techniques shall be assessed an administrative penalty of \$500.

Subd. 4. WELL CONSTRUCTION AND MACHINERY. A well contractor, limited well contractor, or monitoring well contractor working under a

New language is indicated by underline, deletions by ~~strikeout~~.

corrective order shall be assessed an administrative penalty of \$250 if the contractor fails as required in the order:

(1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;

(2) to have a permit before a well is constructed;

(3) to register a drilling rig or pump rig or to display the state decal and the registration number on the machine; or

(4) to comply with the rules in the water well construction code relating to disinfection of wells and submission of well construction or well sealing logs and water samples.

Subd. 5. FALSE INFORMATION. A person under a corrective order shall be assessed an administration penalty of \$250 if the person:

(1) fails to disclose or falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property; or

(2) fails to disclose or falsifies information on a well certificate.

Subd. 6. FAILURE TO SEAL WELL OR HAVE CONSTRUCTION PERMIT. A person under a corrective order shall be assessed an administrative penalty of \$250 if the person:

(1) employs a well contractor on the person's property and fails to obtain a permit for construction of the well; or

(2) fails to have a well sealed in accordance with the rules.

#### Sec. 46. [103I.711] IMPOUNDING OF EQUIPMENT.

Subdivision 1. IMPOUNDMENT. If the commissioner issues an order finding that a person is constructing, repairing, or sealing wells or installing pumps or pumping equipment or excavating holes for installing elevator shafts or hydraulic cylinders without a license or registration as required under this chapter, a sheriff on receipt of the order must seize and impound equipment of the person.

Subd. 2. RELEASE. The equipment must remain in the custody of the sheriff until the equipment is released under the order of a court or until the commissioner orders the sheriff to release the equipment.

#### Sec. 47. [103I.715] CRIMINAL PENALTIES.

Subdivision 1. MISDEMEANORS. A person who violates a provision of this chapter is guilty of a misdemeanor.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. GROSS MISDEMEANORS. A person is guilty of a gross misdemeanor who:

(1) willfully violates a provision of this chapter or order of the commissioner;

(2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator shafts without a license required by this chapter; or

(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter. [156A.08 s. 1]

Subd. 3. PROSECUTION AND VENUE. A violation of this chapter shall be prosecuted by the county attorney in the county where the violation occurred or is occurring. The trial shall be held in that county. [156A.08 s. 1]

**Sec. 48. REPEALER.**

Minnesota Statutes 1988, sections 84.57; 84.58; 84.59; 84.60; 84.61; 84.611; 84.62; 84.621; 105.51, subdivision 3; 156A.01; 156A.02; 156A.03; 156A.031; 156A.04; 156A.05; 156A.06; 156A.07; 156A.071; 156A.075; 156A.08; 156A.10; and 156A.11, are repealed.

**Sec. 49. EFFECTIVE DATE.**

Section 9 is effective July 1, 1989, but a well notification is not required to be filed with the commissioner for construction of a well until after December 31, 1989.

Section 14 relating to disclosing wells to buyers and transferees is effective July 1, 1990.

Section, 31, 32, and 33 are effective July 1, 1990, and limited well contractor licenses and limited well sealing licenses may not be issued until after that date.

Sections 24 and 33 relating to permits required for elevator shafts and elevator shaft contractor licenses are effective July 1, 1990.

New language is indicated by underline, deletions by ~~strikeout~~.

## ARTICLE 4

## WATER CONSERVATION

Section 1. Minnesota Statutes 1988, section 105.41, subdivision 1, is amended to read:

Subdivision 1. **COMMISSIONER'S PERMISSION.** (a) It is unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner. This section does not apply to the use of water for domestic purposes serving less than 25 persons. The commissioner shall set up a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.

(b) A permit may not be issued under this section unless the permit is consistent with state, regional, and local water and related land resources management plans.

(c) The commissioner may not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued for agricultural irrigation under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers a domestic water supply.

Sec. 2. Minnesota Statutes 1988, section 105.41, subdivision 1a, is amended to read:

Subd. 1a. **WATER ALLOCATION RULES, PRIORITIES.** (a) The commissioner shall submit to the legislature by January 1, 1975, for its approval, ~~proposed adopt~~ rules governing the for allocation of waters among potential water users. These rules must be based on the following priorities for the consumptive appropriation and use of water:

(1) first priority: domestic water supply, excluding industrial and commercial uses of municipal water supply, and use for power production that meets the contingency planning provisions of section 105.417, subdivision 5;

(2) second priority: ~~any~~ a use of water that involves consumption of less than 10,000 gallons of water a per day. ~~In this section "consumption" means water withdrawn from a supply that is lost for immediate further use in the area;~~

(3) third priority: agricultural irrigation and processing of agricultural products, involving consumption in excess of 10,000 gallons a per day; and ~~processing of agricultural products;~~

(4) fourth priority: power production; ~~involving consumption in excess of 10,000 gallons a day;~~ in excess of the use provided for in the contingency plan developed under section 105.417, subdivision 5; and

New language is indicated by underline, deletions by ~~strikeout~~.

(5) fifth priority: other uses, other than agricultural irrigation, processing of agricultural products, and power production, involving consumption in excess of 10,000 gallons a per day and nonessential uses of public water supplies as defined in section 105.518, subdivision 1.

(b) For the purposes of this section, "consumption" shall mean water withdrawn from a supply which is lost for immediate further use in the area.

(c) Appropriation and use of surface water from streams during periods of flood flows and high water levels must be encouraged subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

(d) Appropriation and use of surface water from lakes of less than 500 acres in surface area must be discouraged.

(e) The treatment and reuse of water from nonconsumptive uses shall be encouraged.

(f) Diversions of water from the state for use in other states or regions of the United States or Canada must be discouraged.

~~No permit may be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans, if regional and local plans are consistent with statewide plans. The commissioner must not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.~~

Sec. 3. Minnesota Statutes 1988, section 105.41, subdivision 1b, is amended to read:

Subd. 1b. USE LESS THAN MINIMUM. No Except for local permits under section 473.877, subdivision 1, a permit is not required for the appropriation and use of less than a minimum amount to be established by the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules must include provisions for reporting to the commissioner the amounts of water appropriated under local permits.

Sec. 4. Minnesota Statutes 1988, section 105.41, is amended by adding a subdivision to read:

Subd. 1c. CERTAIN COOLING SYSTEM PERMITS PROHIBITED. (a) The commissioner may not issue a water use permit from a groundwater source for a once-through cooling system using in excess of five million gallons annually.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) For purposes of this subdivision, a once-through cooling system means a cooling or heating system for human comfort that draws a continuous stream of water from a groundwater source to remove or add heat for cooling, heating, or refrigeration.

Sec. 5. Minnesota Statutes 1988, section 105.41, subdivision 5, is amended to read:

Subd. 5. **RECORDS REQUIRED.** Records of the amount of water appropriated or used must be kept for each installation. The readings and the total amount of water appropriated must be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

The records must be submitted with an annual water appropriation processing fee in the amount established in accordance with the following schedule of fees for each water appropriation permit in force at any time during the year: (1) irrigation permits, \$15 for the first permitted 160 acres or part of 160 acres; and \$25 for each additional permitted 160 acres or part of 160 acres; (2) for nonirrigation permits, \$5 for each ten million gallons or portion of that amount permitted each year. However, the fee must not exceed a total of \$500 per permit.

Subd. 5a. WATER USE PROCESSING FEE. (a) Except as provided in paragraph (b), a water use processing fee not to exceed \$2,000 must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) 0.05 cent per 1,000 gallons for the first 50 million gallons per year; and

(2) 0.1 cents per 1,000 gallons for the amounts greater than 50 million gallons per year.

(b) For once-through cooling systems as defined in subdivision 1c, a water use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water use permit in force at any time during the year:

(1) 5.0 cents per 1,000 gallons until December 31, 1991;

(2) 10.0 cents for 1,000 gallons from January 1, 1992, until December 31, 1996; and

(3) 15.0 cents per 1,000 gallons after January 1, 1997.

(c) The fee is payable regardless of based on the amount of water appropriated permitted during the year and in no case may the fee be less than \$25.

(d) Failure to pay the fee is sufficient cause for revoking a permit. No fee may be imposed on any state agency, as defined in section 16B.01, or federal governmental agency holding a water appropriation permit.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1988, section 105.418, is amended to read:

**105.418 CONSERVATION OF PUBLIC WATER SUPPLIES.**

(a) During periods of critical water deficiency as determined by the governor and declared by executive order of the governor, public water supply authorities appropriating water shall adopt and enforce restrictions consistent with rules adopted by the commissioner of natural resources within their areas of jurisdiction. The restrictions must limit lawn sprinkling, car washing, golf course and park irrigation, and other nonessential uses and have appropriate penalties for failure to comply with the restrictions.

~~(b) The commissioner may adopt emergency rules according to sections 14.29 to 14.36 relating to matters covered by this section during the year 1977.~~

(c) Disregard of critical water deficiency orders, even though total appropriation remains less than that permitted, is adequate grounds for immediate modification of ~~any~~ a public water supply authority's appropriator's water use permit.

Sec. 7. Minnesota Statutes 1988, section 473.877, is amended by adding a subdivision to read:

Subd. 4. APPROPRIATIONS FROM SMALL WATERCOURSES. (a) This subdivision applies in Hennepin and Ramsey counties to the following public waters:

(1) a public water basin or wetland wholly within the county that is less than 500 acres; or

(2) a protected watercourse that has a drainage area of less than 50 square miles.

(b) An appropriation of water that is below the minimum established in section 105.41, subdivision 1b, for a nonessential use, as defined under section 105.418, is prohibited unless a permit is obtained from the watershed district or watershed management organization having jurisdiction over the public water basin, wetland, or watercourse. The watershed district or watershed management organization may impose a fee to cover the cost of issuing the permit. This subdivision must be enforced by the home rule charter or statutory city where the appropriation occurs. Violation of this subdivision is a petty misdemeanor, except that a second violation within a year is a misdemeanor. Affected cities shall mail notice of this law to affected riparian landowners.

Sec. 8. CONSUMPTIVE WATER USE STUDY.

The commissioner of natural resources shall conduct a study of consumptive water use and its impact on existing aquifers. The commissioner shall review methods of reducing consumptive water use, including the conversion of once-through cooling systems to alternative systems. The commissioner shall report to the legislative water commission by February 15, 1990, the commissioner's recommendations for alternatives to the once-through cooling systems.

New language is indicated by underline, deletions by ~~strikeout~~.

including the environmental and economic implications of the alternatives. The recommendations must include: options for converting once-through cooling systems; a time schedule for phasing out existing systems; recommended technologies to be used to accomplish the conversion; recommendations for a fee structure that will make once-through cooling systems and conventional systems equal in operating costs; recommendations on the use of deep aquifers for once-through cooling; recommendations on authorizing systems of better efficiency; and advisability of systems that recharge aquifers.

## ARTICLE 5

### PESTICIDE AMENDMENTS

Section 1. Minnesota Statutes 1988, section 18B.01, subdivision 5, is amended to read:

Subd. 5. **COMMERCIAL APPLICATOR.** "Commercial applicator" means a person who has or is required to have a commercial applicator license.

Sec. 2. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 4a. **COLLECTION SITE.** "Collection site" means a permanent or temporary designated location with scheduled hours for authorized collection where pesticide end users may bring their waste pesticides.

Sec. 3. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 6a. **CONTAINER.** "Container" means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

Sec. 4. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 6b. **CORRECTIVE ACTION.** "Corrective action" means an action taken to minimize, eliminate, or clean up an incident.

Sec. 5. Minnesota Statutes 1988, section 18B.01, subdivision 12, is amended to read:

Subd. 12. **INCIDENT.** "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, ~~portable container rupture~~, leak, spill, emission discharge, escape, disposal, or other event that releases or immediately threatens to release a pesticide accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. "Incident" does not include ~~the lawful use or intentional~~ a release of a from normal use of a pesticide or practice in accordance with its approved labeling law.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

**Subd. 14a. LOCAL UNIT OF GOVERNMENT.** “Local unit of government” means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, another special purpose district, and local or regional board.

Sec. 7. Minnesota Statutes 1988, section 18B.01, subdivision 15, is amended to read:

**Subd. 15. NONCOMMERCIAL APPLICATOR.** “Noncommercial applicator” means a person ~~with~~ who has or is required to have a noncommercial applicator license.

Sec. 8. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

**Subd. 15a. OWNER OF REAL PROPERTY.** “Owner of real property” means a person who is in possession of, has the right of control, or controls the use of real property, including a person who has legal title to property and a person who has the right to use or contract use of the property under a lease, contract for deed, or license.

Sec. 9. Minnesota Statutes 1988, section 18B.01, subdivision 19, is amended to read:

**Subd. 19. PESTICIDE DEALER.** “Pesticide dealer” means a person ~~with~~ who has or is required to have a pesticide dealer license.

Sec. 10. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

**Subd. 19a. PESTICIDE END USER.** “Pesticide end user” means a farmer or other person who uses, intends to use, or owns a pesticide. Pesticide end user does not include a dealer, manufacturer, formulator, or packager.

Sec. 11. Minnesota Statutes 1988, section 18B.01, subdivision 21, is amended to read:

**Subd. 21. PRIVATE APPLICATOR.** “Private applicator” means a person certified or required to be certified to use ~~or supervise use of~~ restricted use pesticides.

Sec. 12. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

**Subd. 24b. RETURNABLE CONTAINER.** “Returnable container” means a container for distributing pesticides that enables the unused pesticide product to be returned to the distributor, manufacturer, or packager, and includes bulk.

New language is indicated by underline, deletions by ~~strikeout~~.

mini-bulk, or dedicated containers designed to protect the integrity of the pesticide and prevent contamination through the introduction of unauthorized materials.

Sec. 13. Minnesota Statutes 1988, section 18B.01, subdivision 26, is amended to read:

Subd. 26. **SAFEGUARD.** "Safeguard" means a facility, equipment, device, or system, or a combination of these, designed to prevent the ~~escape or movement of a pesticide from the place it is stored or kept under conditions that might otherwise result in contamination of the environment~~ an incident as required by rule.

Sec. 14. Minnesota Statutes 1988, section 18B.01, subdivision 30, is amended to read:

Subd. 30. **STRUCTURAL PEST CONTROL APPLICATOR.** "Structural pest control applicator" means a person ~~with~~ who has or is required to have a structural pest control applicator license.

Sec. 15. Minnesota Statutes 1988, section 18B.01, is amended by adding a subdivision to read:

Subd. 31a. WASTE PESTICIDE. "Waste pesticide" means a pesticide that the pesticide end user considers a waste. A waste pesticide can be a canceled pesticide, an unusable pesticide, or a usable pesticide.

Sec. 16. Minnesota Statutes 1988, section 18B.04, is amended to read:

**18B.04 PESTICIDE IMPACT ON ~~WATER QUALITY~~ ENVIRONMENT.**

The commissioner shall:

(1) determine the impact of pesticides on the environment, including the impacts on surface water and ground water groundwater in this state;

(2) develop best management practices involving pesticide distribution, storage, handling, use, and disposal; and

(3) cooperate with and assist other state agencies and local governments to protect public health and the environment from harmful exposure to pesticides.

Sec. 17. **[18B.045] PESTICIDE MANAGEMENT PLAN.**

Subdivision 1. DEVELOPMENT. The commissioner shall develop a pesticide management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in groundwaters and surface waters of the state. The pesticide management plan must include components promoting prevention, developing appropriate responses to the detection of pesticides or pesticide breakdown products in groundwater and surface waters, and providing responses to reduce or eliminate continued pesticide movement to groundwater and surface water.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. COORDINATION. The pesticide management plan shall be coordinated and developed with other state agency plans and with other state agencies through the environmental quality board. In addition, the University of Minnesota extension service, farm organizations, farmers, environmental organizations, and industry shall be involved in the pesticide management plan development.

**Sec. 18. [18B.063] STATE USES OF PESTICIDES AND NUTRIENTS.**

The state shall use integrated pest management techniques in its management of public lands, including roadside rights-of-way, parks, and forests; and shall use planting regimes that minimize the need for pesticides and added nutrients.

**Sec. 19. [18B.064] PESTICIDE USE INFORMATION.**

The commissioner shall monitor urban and rural pesticide use on a biennial basis. Information shall be collected and automated consistent with section 116C.41, subdivision 1.

**Sec. 20. [18B.065] WASTE PESTICIDE COLLECTION PROGRAM.**

Subdivision 1. COLLECTION AND DISPOSAL. The commissioner of agriculture shall establish and operate a program to collect waste pesticides. The program shall be made available to pesticide end users whose waste generating activity occurs in this state.

Subd. 2. IMPLEMENTATION. (a) The commissioner may obtain a United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected.

(b) The commissioner may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end users for portions of the costs incurred.

Subd. 3. INFORMATION AND EDUCATION. The commissioner shall provide informational and educational materials regarding waste pesticides and the proper management of waste pesticides to the public.

Subd. 4. CONSULTATION WITH POLLUTION CONTROL AGENCY. The commissioner shall develop the program in this section in consultation and cooperation with the pollution control agency.

Subd. 5. WASTE PESTICIDE COLLECTION ACCOUNT. A waste pesticide account is established in the state treasury. Assessments collected under subdivision 2 shall be deposited in the state treasury and credited to the waste pesticide account. Money in the account is appropriated to the commissioner to pay for costs incurred to implement the waste pesticide collection program.

Subd. 6. RULES. The commissioner may adopt rules to administer this section.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 7. COOPERATIVE AGREEMENTS.** The commissioner may enter into cooperative agreements with state agencies and local units of government for administration of the waste pesticide collection program.

Sec. 21. Minnesota Statutes 1988, section 18B.07, subdivision 2, is amended to read:

Subd. 2. **PROHIBITED PESTICIDE USE.** (a) A person may not use, store, handle, distribute, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) that is inconsistent with a label or labeling as defined by FIFRA;

(2) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife; or beneficial insects; or

(3) that will cause unreasonable adverse effects on the environment.

(b) A person may not direct a pesticide ~~on~~ onto property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray.

(d) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

Sec. 22. Minnesota Statutes 1988, section 18B.07, subdivision 3, is amended to read:

Subd. 3. **POSTING.** (a) If the pesticide labels prescribe specific hourly or daily intervals for human reentry following application, the person applying the pesticide must post ~~fields sites~~, buildings, or areas where the pesticide has been applied. The posting must be done with placards in accordance with label requirements and rules adopted under this section.

(b) ~~Fields Sites~~ being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. The posting must be done in accordance with labeling and rules adopted under this chapter.

Sec. 23. Minnesota Statutes 1988, section 18B.07, subdivision 4, is amended to read:

Subd. 4. **PESTICIDE SAFEGUARDS AT APPLICATION SITES.** A person may not allow a pesticide, rinsate, or unrinsed pesticide container to be stored, kept, or to remain in or on any site without safeguards adequate to prevent ~~the escape or movement of the pesticides from the site~~ an incident.

Sec. 24. Minnesota Statutes 1988, section 18B.07, subdivision 6, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.** (a) A person may not fill pesticide application equipment directly from public or other waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

(b) This subdivision does not apply to permitted applications of aquatic pesticides to public waters.

Sec. 25. Minnesota Statutes 1988, section 18B.08, subdivision 1, is amended to read:

Subdivision 1. **PERMIT REQUIRED.** (a) A person may not apply pesticides through an irrigation system without a chemigation permit from the commissioner. ~~Only one~~ A chemigation permit is required for two or more wells or other sources of irrigation water that are protected from contamination by the ~~same devices as required by rule.~~ The commissioner may allow irrigation to be used to apply pesticides on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

(b) A person must apply for a chemigation permit on forms prescribed by the commissioner.

Sec. 26. Minnesota Statutes 1988, section 18B.08, subdivision 3, is amended to read:

Subd. 3. **EQUIPMENT.** A chemigation system must be fitted with effective antisiphon devices or check valves that prevent the backflow of pesticides or pesticide-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump or water source discharge and the point of pesticide injection; and

(2) the point of pesticide injection and the pesticide supply.

Sec. 27. Minnesota Statutes 1988, section 18B.08, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FEE.** A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50 ~~for each well that is to be used in applying the pesticides by irrigation.~~ A person who holds a fertilizer chemigation permit under article 6, section 11, is exempt from the fee in this subdivision.

Sec. 28. **[18B.115] USE OF CHLORDANE PROHIBITED.**

The state, a state agency, a political subdivision of the state, a person, or other legal entity may not sell, use, or apply the pesticide chlordane or its derivative heptachlor within the state.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 29. [18B.135] SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.**

**Subdivision 1. ACCEPTANCE OF RETURNABLE CONTAINERS.** (a) A person distributing, offering for sale, or selling a pesticide must accept empty pesticide containers and the unused portion of pesticide that remains in the original container from a pesticide end user if:

(1) the pesticide was purchased after the effective date of this section; and

(2) a place is not designated in the county for the public to return empty pesticide containers and the unused portion of pesticide.

(b) This subdivision does not prohibit the use of refillable and reusable pesticide containers.

(c) The legislative water commission must prepare a report and make a recommendation to the legislature on the handling of waste pesticide containers and waste pesticides.

**Subd. 2. RULES.** The commissioner may adopt rules to implement this section, including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers.

**PESTICIDE RELEASE INCIDENTS**

Sec. 30. Minnesota Statutes 1988, section 18B.26, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year.

(b) Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

(c) An unregistered pesticide that was previously registered with the commissioner may be used only with the written permission of the commissioner.

(d) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.

Sec. 31. Minnesota Statutes 1988, section 18B.26, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FEE.** (a) An application for initial registration and renewal must be accompanied by a nonrefundable application fee of \$125

New language is indicated by underline, deletions by ~~strikeout~~.

for each pesticide to be registered. A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for 1990 and at one-fifth of one percent thereafter of annual gross sales within the state, with a minimum fee of \$150. A registrant paying more than the minimum fee shall pay the application fee in quarterly installments by 30 days after the end of each calendar quarter based on the gross sales of the pesticide by the registrant for the preceding calendar quarter. The fee for disinfectants and sanitizers is \$150. Of the amount collected after July 1, 1990, \$600,000 per year must be credited to the waste pesticide account under section 20, subdivision 5.

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before initial state registration. A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed at the time of payment of the registration application fee. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

Sec. 32. Minnesota Statutes 1988, section 18B.26, subdivision 5, is amended to read:

Subd. 5. ~~APPLICATION REVIEW AND REGISTRATION.~~ (a) The commissioner may not deny the registration of a pesticide because the commissioner determines the pesticide is not essential.

(b) The commissioner shall review each application and may approve, deny, or cancel the registration of any pesticide. The commissioner may impose state use and distribution restrictions on a pesticide as part of the registration to prevent unreasonable adverse effects on the environment.

(c) The commissioner must notify the applicant of the approval, denial, cancellation, ~~or~~ state use or distribution restrictions ~~within 30 days after the application and fee are received.~~

(d) The applicant may request a hearing on any adverse action of the commissioner within 30 days after being notified ~~by the commissioner.~~

Sec. 33. Minnesota Statutes 1988, section 18B.26, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. DISCONTINUANCE OF REGISTRATION. To ensure complete withdrawal from distribution or further use of a pesticide, a person who intends to discontinue a pesticide registration must:

(1) terminate a further distribution within the state and continue to register the pesticide annually for two successive years;

(2) initiate and complete a total recall of the pesticide from all distribution in the state within 60 days from the date of notification to the commissioner of intent to discontinue registration; or

(3) submit to the commissioner evidence adequate to document that no distribution of the registered pesticide has occurred in the state.

Sec. 34. [18B.035] PESTICIDE EDUCATION AND TRAINING.

Subdivision 1. EDUCATION AND TRAINING. (a) The commissioner shall develop, in conjunction with the University of Minnesota extension service, innovative educational and training programs addressing pesticide concerns including:

- (1) water quality protection;
- (2) endangered species;
- (3) pesticide residues in food and water;
- (4) worker protection;
- (5) chronic toxicity;
- (6) integrated pest management; and
- (7) pesticide disposal.

(b) The commissioner shall appoint educational planning committees which must include representatives of industry.

(c) Specific current regulatory concerns must be discussed and, if appropriate, incorporated into each training session.

(d) The commissioner may approve programs from private industry and nonprofit organizations that meet minimum requirements for education, training, and certification.

Subd. 2. TRAINING MANUAL AND EXAMINATION DEVELOPMENT. The commissioner, in conjunction with the University of Minnesota extension service, shall continually revise and update pesticide applicator training manuals and examinations. The manuals and examinations must be written to meet or exceed the minimum standards required by the United States Environmental Protection Agency and pertinent state specific information. Questions in the examinations must be determined by the responsible agencies. Manuals and examinations must include pesticide management practices that discuss prevention of pesticide occurrence in groundwaters of the state.

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 3. PESTICIDE APPLICATOR EDUCATION AND EXAMINATION REVIEW BOARD.** (a) The commissioner shall establish and chair a pesticide applicator education and examination review board. This board must meet at least once a year before the initiation of pesticide educational planning programs. The purpose of the board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness.

(b) Membership on this board must represent industry, private, nonprofit organizations, and other governmental agencies, including the University of Minnesota, the pollution control agency, department of health, department of natural resources, and department of transportation.

(c) Membership on the board must include representatives from environmental protection organizations.

Sec. 35. Minnesota Statutes 1988, section 18B.31, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except as provided in paragraph (b), a person may not distribute at wholesale or retail or possess restricted use pesticides or bulk pesticides with an intent to distribute them to an ultimate user without a pesticide dealer license.

(b) The pesticide dealer license requirement does not apply to:

(1) a licensed commercial applicator, noncommercial applicator, or structural pest control applicator who uses restricted use pesticides only as an integral part of a pesticide application service;

(2) a federal, state, county, or municipal agency using restricted use pesticides for its own programs; or

(3) a licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in the pharmacist's, physician's, dentist's, or veterinarian's practice; or

(4) ~~a distributor or wholesaler shipping restricted use pesticides to commercial applicators who are the ultimate users.~~

(c) A licensed pesticide dealer may sell restricted use pesticides only to an applicator licensed or certified by the commissioner, unless a sale is allowed by rule.

Sec. 36. Minnesota Statutes 1988, section 18B.31, subdivision 3, is amended to read:

Subd. 3. **LICENSE.** A pesticide dealer license:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) expires on December 31 of each year unless it is suspended or revoked before that date; ~~and~~

(2) is not transferable to another person or location; and

(3) must be prominently displayed to the public in the pesticide dealer's place of business.

Sec. 37. Minnesota Statutes 1988, section 18B.31, subdivision 5, is amended to read:

Subd. 5. **APPLICATION FEE.** (a) An application for a pesticide dealer license must be accompanied by a nonrefundable application fee of \$50.

(b) If an application for renewal of a pesticide dealer license is not filed before January 1 of the year for which the license is to be issued, an additional fee of \$20 must be paid by the applicant before the license is issued.

(c) An application for a duplicate pesticide dealer's license must be accompanied by a nonrefundable application fee of \$10.

Sec. 38. Minnesota Statutes 1988, section 18B.32, subdivision 2, is amended to read:

Subd. 2. **LICENSES.** (a) A structural pest control license:

(1) expires on December 31 of the year for which the license is issued; ~~and~~

(2) is not transferable; and

(3) must be prominently displayed to the public in the structural pest controller's place of business.

(b) The commissioner shall establish categories of master, journeyman, and fumigator for a person to be licensed under a structural pest control license.

Sec. 39. Minnesota Statutes 1988, section 18B.33, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories except a licensed structural pest control applicator.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without an aquatic category endorsement on a commercial applicator license.

(c) A commercial applicator licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 40. Minnesota Statutes 1988, section 18B.33, subdivision 3, is amended to read:

Subd. 3. **LICENSE.** A commercial applicator license:

(1) expires on December 31 of the year for which it is issued, unless suspended or revoked before that date; ~~and~~

(2) is not transferable to another person; and

(3) must be prominently displayed to the public in the commercial applicator's place of business.

Sec. 41. Minnesota Statutes 1988, section 18B.33, subdivision 7, is amended to read:

Subd. 7. **APPLICATION FEES.** (a) A person initially applying for or renewing a commercial applicator license as a ~~business entity~~ must pay a non-refundable application fee of \$50; ~~except a person who is an employee of a business entity that has a commercial applicator license and is applying for or renewing a commercial applicator license as an individual the nonrefundable application fee is \$25.~~

(b) If a renewal application is not filed before March 1 of the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the commercial applicator license may be issued.

(c) An application for a duplicate commercial applicator license must be accompanied by a nonrefundable application fee of \$10.

Sec. 42. Minnesota Statutes 1988, section 18B.34, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except for a licensed commercial applicator, certified private applicator, or licensed structural pest control applicator, a person, including a government employee, may not use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A ~~person with a~~ licensed noncommercial applicator license may not apply pesticides into or on surface waters without an aquatic category endorsement on the license.

(c) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Sec. 43. Minnesota Statutes 1988, section 18B.34, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **LICENSE.** A noncommercial applicator license:

(1) expires on December 31 of the year for which it is issued unless suspended or revoked before that date; ~~and~~

(2) is not transferable; and

(3) must be prominently displayed to the public in the noncommercial applicator's place of business.

Sec. 44. Minnesota Statutes 1988, section 18B.34, subdivision 5, is amended to read:

Subd. 5. **FEES.** (a) A person initially applying for or renewing a noncommercial applicator license ~~as a business entity~~ must pay a nonrefundable application fee of \$50; ~~A person who is an employee of a business entity that has a noncommercial applicator license and is applying for or renewing a noncommercial applicator license as an individual must pay a nonrefundable application fee of \$25,~~ except an applicant who is a government employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.

(b) If an application for renewal of a noncommercial license is not filed before March 1 in the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the renewal license may be issued.

(c) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of \$10.

Sec. 45. Minnesota Statutes 1988, section 18B.36, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except for a licensed commercial or noncommercial applicator, only a ~~person~~ certified ~~as a private applicator~~ may use ~~or supervise the use of~~ a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation; or

(2) on a site owned, rented, or managed by the person or the person's employees.

(b) A private applicator may not purchase a restricted use pesticide without presenting a certified private applicator card or the card number.

Sec. 46. Minnesota Statutes 1988, section 18B.36, subdivision 2, is amended to read:

Subd. 2. **CERTIFICATION.** (a) The commissioner shall prescribe certification requirements and provide training that meets or exceeds United States Environmental Protection Agency standards to certify ~~persons~~ as private applica-

New language is indicated by underline, deletions by ~~strikeout~~.

tors and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies and must be a minimum of three hours in duration.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, which must include an examination as determined by the commissioner, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of ~~five~~ three years from the applicant's nearest birthday.

(c) The commissioner shall issue a private applicator card to a private applicator.

Sec. 47. Minnesota Statutes 1988, section 18B.37, subdivision 1, is amended to read:

Subdivision 1. **PESTICIDE DEALER.** (a) A pesticide dealer must maintain records of all sales of restricted use pesticides as required by the commissioner. Records must be kept at the time of sale on forms supplied by the commissioner or on the pesticide dealer's forms if they are approved by the commissioner.

(b) Records must be submitted annually with the renewal application for a pesticide dealer license or upon request of the commissioner.

(c) Copies of records required under this subdivision must be maintained by the pesticide dealer for a period of five years after the date of the pesticide sale.

Sec. 48. Minnesota Statutes 1988, section 18B.37, subdivision 2, is amended to read:

Subd. 2. **COMMERCIAL AND NONCOMMERCIAL APPLICATORS.** (a) A commercial or noncommercial applicator, or the applicator's authorized agent, must maintain a record of pesticides used on each site. The record must include the:

- (1) date of the pesticide use;
- (2) time the pesticide application was completed;
- (3) brand name of the pesticide, the United States Environmental Protection Agency registration number, and dosage used;
- (4) number of units treated;
- (5) temperature, wind speed, and wind direction;
- (6) location of the site where the pesticide was applied;
- (7) name and address of the customer;

New language is indicated by underline, deletions by ~~strikeout~~.

(8) name and signature of applicator, name of company, license number of applicator, and address; and signature of applicator company; and

(9) any other information required by the commissioner.

(b) Portions of records not relevant to a specific type of application may be omitted upon approval from the commissioner.

(c) All information for this record requirement must be contained in a single page document for each pesticide application, except a map may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages. Invoices An invoice containing the required information may constitute the required record. The commissioner shall make sample forms available to meet the requirements of this paragraph.

(d) A commercial applicator must give a copy of the record to the customer when the application is completed.

(e) Records must be retained by the applicator, company, or authorized agent for five years after the date of treatment.

Sec. 49. Minnesota Statutes 1988, section 18B.37, subdivision 3, is amended to read:

Subd. 3. **STRUCTURAL PEST CONTROL APPLICATORS.** (a) A structural pest control applicator must maintain a record of each structural pest control application conducted by that person or by the person's employees. The record must include the:

(1) date of structural pest control application;

(2) target pest;

(3) brand name of the pesticide, United States Environmental Protection Agency registration number, and amount used;

(4) for fumigation, the temperature and exposure time;

(5) time the pesticide application was completed;

~~(5)~~ (6) name and address of the customer;

~~(6)~~ (7) name and signature of structural pest control applicator's company applicator, name of company and address of applicator or company, applicator's signature, and license number of applicator; and

~~(7)~~ (8) any other information required by the commissioner.

(b) Invoices All information for this record requirement must be contained in a single-page document for each pesticide application. An invoice containing the required information may constitute the record.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Records must be retained for five years after the date of treatment.

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site. The commissioner must make sample forms available that meet the requirements of this subdivision.

Sec. 50. Minnesota Statutes 1988, section 18B.37, subdivision 4, is amended to read:

Subd. 4. **STORAGE, HANDLING, AND DISPOSAL PLAN.** A commercial, noncommercial, or structural pest control applicator or the ~~licensed~~ business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Sec. 51. Minnesota Statutes 1988, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. **UNCLASSIFIED POSITIONS.** Unclassified positions are held by employees who are:

- (a) chosen by election or appointed to fill an elective office;
- (b) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (c) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;
- (d) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (e) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (f) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (g) employees of the Washington, D.C., office of the state of Minnesota;

New language is indicated by underline, deletions by ~~strikeout~~.

(h) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(i) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(j) officers and enlisted persons in the national guard;

(k) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(l) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(m) members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

(n) chaplains employed by the state;

(o) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(p) student workers; ~~and~~

(q) employees unclassified pursuant to other statutory authority; and

(r) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation.

**Sec. 52. PESTICIDE CONTAINER COLLECTION AND RECYCLING PILOT PROJECT.**

Subdivision 1. PROJECT. The department of agriculture, in consultation and cooperation with the commissioner of the pollution control agency and the Minnesota extension service, shall design and implement a pilot collection project, to be completed by June 30, 1991, to:

(1) collect, recycle, and dispose of empty, triple-rinsed pesticide containers;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) develop, demonstrate, and promote proper pesticide container management; and

(3) evaluate the current pesticide container management methods and the cause and extent of the problems associated with pesticide containers.

Subd. 2. COLLECTION AND DISPOSAL. The department of agriculture shall provide for the establishment and operation of temporary collection sites for pesticide containers. The department may limit the type and quantity of pesticide containers acceptable for collection.

Subd. 3. INFORMATION AND EDUCATION. The department shall, in consultation with the Minnesota extension service, develop informational and educational materials to promote proper methods of pesticide container management.

Subd. 4. REPORT. During the pilot project, the department of agriculture shall conduct surveys and collect information on proper and improper pesticide container storage and disposal. By November 30, 1991, the department shall report to the legislature its conclusions from the project and recommendations for additional legislation or rules governing the management of pesticide containers.

Subd. 5. MANAGEMENT AND DISPOSAL. The department of agriculture or other entity collecting pesticide containers must manage and dispose of the containers in compliance with applicable federal and state requirements.

**Sec. 53. REPEALER.**

Minnesota Statutes 1988, sections 18A.49; 18B.15; 18B.16; 18B.18; 18B.19; 18B.20; 18B.21; 18B.22; 18B.23; and 18B.25, are repealed.

**Sec. 54. EFFECTIVE DATE.**

Section 29, subdivisions 1 and 2, relating to the sale and distribution of pesticides in returnable containers is effective July 1, 1994.

---

**ARTICLE 6**

**CHAPTER 18C**

**FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS**

**Section 1. [18C.001] CITATION.**

This chapter may be cited as the "fertilizer, soil amendment, and plant amendment law." [17.711]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. [18C.005] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to this chapter. [17.713 s. 1]

Subd. 2. BEST MANAGEMENT PRACTICES. “Best management practices” means practices, techniques, and measures developed under article 1, section 6, subdivision 2.

Subd. 3. BRAND. “Brand” means a term, design, or trademark used in connection with one or several grades of fertilizers or soil and plant amendment materials. [17.713 s. 2]

Subd. 4. CHEMIGATION. “Chemigation” means a process of applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subd. 5. COMMISSIONER. “Commissioner” means the commissioner of agriculture. [17.713 s. 4a]

Subd. 6. COMPOST. “Compost” is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.

Subd. 7. CUSTOM APPLY. “Custom apply” means to apply a fertilizer, soil amendment, or plant amendment product for compensation.

Subd. 8. DEFICIENCY. “Deficiency” means that amount of nutrient found by analysis is less than the amount guaranteed resulting from a lack of nutrient ingredients or from lack of uniformity.

Subd. 9. DISTRIBUTOR. “Distributor” means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer, or who offers for sale, sells, barter, or otherwise supplies fertilizer or soil and plant amendments in this state. [17.713 s. 5]

Subd. 10. ENVIRONMENT. “Environment” means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.

Subd. 11. FERTILIZER. “Fertilizer” means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.

Subd. 12. FIXED LOCATION. “Fixed location” means all stationary fertilizer facility operations, owned or operated by a person, located in the same plant location or locality. [17.713 s. 6a]

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 13. GRADE.** “Grade” means the percentage of total nitrogen (N), available phosphorus (P) or phosphoric acid (P<sub>2</sub>O<sub>5</sub>), and soluble potassium (K) or soluble potash (K<sub>2</sub>O) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash. [17.713 s. 7]

**Subd. 14. GUARANTOR.** “Guarantor” means the person who is guaranteeing the material to be as stated in the guaranteed analysis. [17.713 s. 9]

**Subd. 15. INCIDENT.** “Incident” means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.

**Subd. 16. INVESTIGATIONAL ALLOWANCE.** “Investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

**Subd. 17. LABEL.** “Label” means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a fertilizer, soil amendment, or plant amendment. [17.713 s. 9a]

**Subd. 18. LABELING.** “Labeling” means all written, printed or graphic matter on or accompanying a fertilizer, soil amendment, or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting the sale of fertilizers, soil amendments, or plant amendments. [17.713 s. 9b]

**Subd. 19. MANIPULATED.** “Manipulated” means fertilizers that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.

**Subd. 20. MOBILE MECHANICAL UNIT.** “Mobile mechanical unit” means a portable machine or apparatus used to blend, mix, or manufacture fertilizers. [17.713 s. 11]

**Subd. 21. OFFICIAL SAMPLE.** “Official sample” means a sample of fertilizer, soil amendment, or plant amendment taken by the commissioner according to methods prescribed by this chapter or by rule. [17.713 s. 12]

**Subd. 22. ORGANIC.** “Organic” in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar

New language is indicated by underline, deletions by ~~strikeout~~.

composition with a water insoluble nitrogen content of at least 60 percent of the guaranteed total nitrogen. [17.713 s. 13]

Subd. 23. PERCENT; PERCENTAGE. "Percent" or "percentage" means the percentage by weight. [17.713 s. 14]

Subd. 24. PERSON. "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision. [17.713 s. 15]

Subd. 25. PLANT AMENDMENT. "Plant amendment" means a substance applied to plants or seeds that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule. [17.713 s. 15a]

Subd. 26. PLANT FOOD. "Plant food" means a plant nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc. [17.713 s. 15b]

Subd. 27. REGISTRANT. "Registrant" means the person who registers fertilizer, soil amendment, or plant amendment under this chapter. [17.713 s. 16]

Subd. 28. RINSATE. "Rinsate" means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.

Subd. 29. SAFEGUARD. "Safeguard" means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident as required by rule.

Subd. 30. SELL. "Sell," in reference to the sale of fertilizer, soil amendment, or plant amendment, includes:

- (1) the act of selling, transferring ownership;
- (2) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) the possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) the storing, carrying, and handling in aid of trafficking fertilizers, plant amendments, or soil amendments, whether done in person or through an agent, employee or others; and
- (5) receiving, accepting, and holding of consignment for sale. [17.713 s. 17]

Subd. 31. SEWAGE SLUDGE. "Sewage sludge" means the solids and

New language is indicated by underline, deletions by ~~strikeout~~.

associated liquids in municipal wastewater that are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment. [17.713 s. 17a]

Subd. 32. SITE. "Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.

Subd. 33. SOIL AMENDMENT. "Soil amendment" means a substance intended to improve the physical characteristics of the soil, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by the commissioner's rules. [17.713 s. 19]

Subd. 34. SPECIALTY FERTILIZER. "Specialty fertilizer" means a fertilizer labeled and distributed for, but not limited to, the following uses: commercial gardening, greenhouses, nurseries, sod farms, home gardens, house plants, lawn fertilizer that is not custom applied, shrubs, golf courses, municipal parks, cemeteries, and research or experimental uses. [17.713 s. 20]

Subd. 35. SUBSTANTIALLY ALTERING. "Substantially altering" means modifying a facility by adding additional safeguards or storage containers, or changing existing storage containers, safeguards, appurtenances, or piping. This does not include routine maintenance of existing safeguards, storage containers, appurtenances, and piping or of existing mixing, blending, weighing, and handling equipment.

Subd. 36. TON. "Ton" means a net ton of 2,000 pounds avoirdupois. [17.713 s. 21]

Subd. 37. UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT. "Unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.

Subd. 38. WILDLIFE. "Wildlife" means living things that are not human, domesticated, or pests.

#### GENERAL PROVISIONS

##### Sec. 3. [18C.105] ADMINISTRATION.

The commissioner of agriculture shall administer this chapter. [17.712]

##### Sec. 4. [18C.111] POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. ADMINISTRATION BY COMMISSIONER. The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of fertilizer, including storage, handling, distribution, use, and disposal of fertilizer.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. DELEGATION OF DUTIES. The commissioner may delegate duties under this chapter to designated employees or agents of the department of agriculture.

Subd. 3. DELEGATION TO APPROVED AGENCIES. The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of other agencies. The delegation may only be made to a state agency, a political subdivision, or a political subdivision's agency that has signed a joint powers agreement with the commissioner as provided in section 471.59.

**Sec. 5. [18C.115] ADOPTION OF NATIONAL STANDARDS.**

Subdivision 1. POLICY OF UNIFORMITY. It is the policy of this state to achieve and maintain uniformity as much as possible with national standards and with other states in the regulation and control of the manufacture, distribution, and sale of fertilizer in this state.

Subd. 2. ADOPTION OF NATIONAL STANDARDS. Applicable national standards contained in the 1989 official publication, number 42, of the association of American plant food control officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.

**Sec. 6. [18C.121] RULES.**

Subdivision 1. ADMINISTRATION. The commissioner may adopt emergency or permanent rules necessary to implement and enforce this chapter. The rules must conform to national standards in a manner that is practicable and consistent with state law. [17.725 s. 1]

Subd. 2. LIMING MATERIALS. The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes. [17.725 s. 2]

Subd. 3. CERTIFICATION OF LABORATORIES. The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory. [17.725 s. 3]

Subd. 4. HEARINGS. Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.

**Sec. 7. [18C.131] FERTILIZER INSPECTION ACCOUNT.**

New language is indicated by underline, deletions by ~~strikeout~~.

A fertilizer inspection account is established in the state treasury. The fees collected under this chapter must be deposited in the state treasury and credited to the fertilizer inspection account. Money in that account, including interest earned and money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration of this chapter. [17.717 s. 1a]

**Sec. 8. [18C.135] APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.**

Subdivision 1. SEWAGE SLUDGE WITHOUT CHARGE EXEMPT. Sewage sludge that is transferred between parties without compensation is exempt from the requirements of this chapter except the labeling requirements of this chapter.

Subd. 2. SEWAGE SLUDGE ANALYSIS MEETS LABELING REQUIREMENTS. A copy of the sewage sludge analysis required by the rules of the pollution control agency is sufficient to meet the labeling requirements.

Subd. 3. COMPOST WITHOUT CHARGE EXEMPT. Compost that is transferred between parties without compensation is exempt from all requirements of this chapter.

**Sec. 9. [18C.141] SOIL TESTING LABORATORY CERTIFICATION.**

Subdivision 1. PROGRAM ESTABLISHMENT. The commissioner shall establish a program to certify the accuracy of analyses from soil testing laboratories and promote standardization of soil testing procedures and analytical results.

Subd. 2. CHECK SAMPLE SYSTEM. (a) The commissioner shall institute a system of check samples that requires a laboratory to be certified to analyze at least four multiple soil check samples during the calendar year. The samples must be supplied by the commissioner or by a person under contract with the commissioner to prepare and distribute the samples.

(b) Within 30 days after the laboratory receives check samples, the laboratory shall report to the commissioner the results of the analyses for all requested elements or compounds or for the elements or compounds the laboratory makes an analytical determination of as a service to others.

(c) The commissioner shall compile analytical data submitted by laboratories and provide laboratories submitting samples with a copy of the data without laboratory names or code numbers.

(d) The commissioner may conduct check samples on laboratories that are not certified.

Subd. 3. ANALYSES REPORTING STANDARDS. (a) The results obtained from soil or plant analysis must be reported in accordance with standard reporting units established by the commissioner by rule. The standard reporting units must conform as far as practical to uniform standards that are adopted on a regional or national basis.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If a certified laboratory offers a recommendation, the University of Minnesota recommendation or that of another land grant college in a contiguous state must be offered in addition to other recommendations, and the source of the recommendation must be identified on the recommendation form. If relative levels such as low, medium, or high are presented to classify the analytical results, the corresponding relative levels based on the analysis as designated by the University of Minnesota or the land grant college in a contiguous state must also be presented.

Subd. 4. REVOCATION OF CERTIFICATION. If the commissioner determines that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, the commissioner may deny, suspend, or revoke certification.

Subd. 5. CERTIFICATION FEES. (a) A laboratory applying for certification shall pay an application fee of \$100 and a certification fee of \$100 before the certification is issued.

(b) Certification is valid for one year and the renewal fee is \$100. The commissioner shall charge an additional application fee of \$100 if a certified laboratory allows certification to lapse before applying for renewed certification.

(c) The commissioner shall notify a certified lab that its certification lapses within 30 to 60 days of the date when the certification lapses.

Subd. 6. RULES. The commissioner shall adopt rules for the establishment of minimum standards for laboratories, equipment, procedures, and personnel used in soil analysis and rules necessary to administer and enforce this section. The commissioner shall consult with representatives of the fertilizer industry, representatives of the laboratories doing business in this state, and with the University of Minnesota college of agriculture before proposing rules. [17.73]

#### SALE, USE, AND STORAGE

##### Sec. 10. [18C.201] PROHIBITED FERTILIZER ACTIVITIES.

Subdivision 1. STORAGE, HANDLING, DISTRIBUTION, OR DISPOSAL. A person may not store, handle, distribute, or dispose of a fertilizer, rinsate, fertilizer container, or fertilizer application equipment in a manner:

(1) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife;

(2) that will cause unreasonable adverse effects on the environment; or

(3) that will cause contamination of public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, from backsiphoning or backflowing of fertilizers through water wells or from the direct flowage of fertilizers.

Subd. 2. USE OF PUBLIC WATER SUPPLIES FOR FILLING EQUIPMENT. A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the

New language is indicated by underline, deletions by ~~strikeout~~.

public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.

**Subd. 3. USE OF PUBLIC WATERS FOR FILLING EQUIPMENT.** A person may not fill fertilizer application equipment directly from public or other waters of the state, as defined in section 105.37, subdivisions 7 and 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms.

**Subd. 4. CLEANING EQUIPMENT IN OR NEAR SURFACE WATER.** A person may not:

(1) clean fertilizer application equipment in surface waters of the state; or

(2) fill or clean fertilizer application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, fertilizers or materials contaminated with fertilizers could enter or contaminate the surface waters, groundwater, or wells, as a result of overflow, leakage, or other causes.

**Subd. 5. FERTILIZER, RINSATE, AND CONTAINER DISPOSAL.** A person may only dispose of fertilizer, rinsate, and fertilizer containers in accordance with this chapter. The manner of disposal must not cause unreasonable adverse effects on the environment.

**Sec. 11. [18C.205] CHEMIGATION.**

**Subdivision 1. AUTHORIZATION.** The commissioner may issue chemigation permits for irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

**Subd. 2. PERMIT REQUIRED.** A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells that are protected from contamination by the same devices.

**Subd. 3. APPLICATION.** (a) A person must apply for a chemigation permit on forms prescribed by the commissioner.

(b) A person initially applying for a chemigation permit must pay a non-refundable application fee of \$50. A person who holds a valid pesticide chemigation permit as required in chapter 18B is exempt from the fee in this subdivision.

**Subd. 4. PERMIT REQUIREMENTS.** An irrigation system operating under a chemigation permit must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump or other source discharge and the point of fertilizer injection; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the point of fertilizer injection and the fertilizer supply.

Subd. 5. RULES. The commissioner shall adopt rules prescribing conditions and restrictions for applying fertilizers by irrigation.

**Sec. 12. [18C.211] GUARANTEED ANALYSIS.**

Subdivision 1. N, P, and K NUTRIENT CONTENT STATED. (a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.

(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:

<u>"Total Nitrogen (N)</u>	<u>..... percent</u>
<u>Available Phosphoric Acid (P2O5)</u>	<u>..... percent</u>
<u>Soluble Potash (K2O)</u>	<u>..... percent"</u>

(c) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total phosphoric acid or degree of fineness may also be stated. [17.713 s. 8]

Subd. 2. GUARANTEES OF THE NUTRIENTS. (a) A person may guarantee plant nutrients other than nitrogen, phosphorus, and potassium only if allowed or required by commissioner's rule.

(b) The guarantees for the plant nutrients must be expressed in the elemental form.

(c) The sources of other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station.

(d) If plant nutrients or other substances or compounds are guaranteed, the plant nutrients are subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.

(e) The commissioner may, by rule, require the potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton. [17.713 s. 8]

Subd. 3. FORM FOR ANALYSES. (a) The commissioner may require a guaranteed analysis to be in a prescribed form if the commissioner determines that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer because of conflicting labeling requirements among the states.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The commissioner must give proper notice and hold a public hearing before the determination is made.

(c) After making the determination under paragraph (a), the commissioner may require by rule that guaranteed analyses be in the following form:

<u>"Total Nitrogen (N)</u>	<u>..... percent</u>
<u>Available Phosphorus (P)</u>	<u>..... percent</u>
<u>Soluble Potassium (K)</u>	<u>..... percent"</u>

(d) In adopting the rule, the commissioner must provide that:

(1) the effective date of the rule is at least one year after the rule is adopted; and

(2) for a period of two years following the effective date of the rule, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash.

(e) After the effective date of the rule requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium constitute the grade. [17.713 s. 8]

Subd. 4. GUARANTEED ANALYSIS OF SOIL OR PLANT AMENDMENT. The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed. [17.713 s. 8]

### Sec. 13. [18C.215] FERTILIZER LABELING.

Subdivision 1. LABEL CONTENTS. (a) A person may not sell or distribute fertilizer in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the following\*information:

(1) the net weight;

(2) the brand and grade, except (i) the grade is not required if primary nutrients are not claimed, and (ii) the grade on the label is optional if the fertilizer is used only for agricultural purposes and the guaranteed analysis statement is shown in the complete form as in section 12;

(3) the guaranteed analysis;

(4) the name and address of the guarantor;

(5) directions for use; and

(6) a derivatives statement.

New language is indicated by underline, deletions by strikeout.

(b) The labeled information must appear:

(1) on the face or display side of the container in a conspicuous form;

(2) on the upper one-third of the side of the container;

(3) on the upper end of the container; or

(4) printed on tags affixed conspicuously to the upper end of the container.  
[17.716 s. 1]

Subd. 2. BLENDED AND MIXED FERTILIZER. (a) A distributor who blends or mixes fertilizer to a customer's order without a guaranteed analysis of the final mixture must furnish each purchaser with an invoice or delivery ticket in written or printed form showing the net weight and guaranteed analysis of each of the materials used in the mixture.

(b) The invoice or delivery ticket must accompany the delivery.

(c) Records of invoices or delivery tickets must be kept for five years after the delivery or application. [17.716 s. 3]

Subd. 3. BULK FERTILIZER. If fertilizer is transported or distributed in bulk, the information in subdivision 1, paragraph (a), must accompany each delivery in written or printed form and be supplied to each purchaser at time of delivery. [17.716 s. 3]

Subd. 4. PLANT FOOD CONTENT MUST BE UNIFORM. The plant food content of a given lot of fertilizer must remain uniform and may not become segregated within the lot. [17.716 s. 4]

Subd. 5. FERTILIZER IN BULK STORAGE. Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis. [17.716 s. 5]

Sec. 14. [18C.221] FERTILIZER PLANT FOOD CONTENT.

(a) Products that are deficient in plant food content are subject to this subdivision.

(b) An analysis must show that a fertilizer is deficient:

(1) in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation; or

(2) if the overall index value of the fertilizer is shown below the level established by rule.

(c) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.

(e) If a fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant or licensee of the fertilizer must submit a penalty payment of two times the value of the actual shortage to the consumer within 30 days after official notice from the commissioner.

**Sec. 15. [18C.225] MISBRANDED PRODUCTS.**

Subdivision 1. SALE AND DISTRIBUTION PROHIBITED. A person may not sell or distribute a misbranded fertilizer, soil amendment, or plant amendment. [17.722]

Subd. 2. FACTORS CAUSING MISBRANDING. A fertilizer, soil amendment, or plant amendment is misbranded if:

(1) it carries a false or misleading statement on the container, on the label attached to the container; or

(2) false or misleading statements concerning the fertilizer, soil amendment, or plant amendment are disseminated in any manner or by any means. [17.722]

**Sec. 16. [18C.231] ADULTERATION.**

Subdivision 1. SALE AND DISTRIBUTION PROHIBITED. A person may not sell or distribute an adulterated fertilizer, soil amendment, or plant amendment product. [17.723]

Subd. 2. FACTORS CAUSING ADULTERATION. A fertilizer, soil amendment, or plant amendment is adulterated if:

(1) it contains a deleterious or harmful ingredient in an amount to render it injurious to plant life if applied in accordance with directions for use on the label;

(2) the composition falls below or differs from that which the product is purported to possess by its labeling; or

(3) the product contains unwanted crop seed or weed seed. [17.723]

Subd. 3. CERTAIN ADULTERATED PRODUCTS MUST BE DISPOSED. Adulterated products that cannot be reconditioned must be disposed of according to methods approved by the commissioner. [17.723]

**FACILITIES**

**Sec. 17. [18C.235] CONTINGENCY PLAN FOR STORAGE OF BULK PRODUCTS.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. PLAN REQUIRED. A person who stores fertilizers, soil amendment, or plant amendment products in bulk must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices.

Subd. 2. PLAN AVAILABILITY. (a) The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request.

(b) The plan must be available for inspection by the commissioner.

**Sec. 18. [18C.301] MIXING PESTICIDE WITH FERTILIZER, SOIL AMENDMENT, OR PLANT AMENDMENT.**

A distributor who blends, mixes, or otherwise adds pesticides to fertilizers, soil amendments, or plant amendments must:

(1) be licensed under section 23; and

(2) comply with the provisions of chapter 18B and the federal Insecticide, Fungicide and Rodenticide Act, Public Law Number 92-516, as amended. [17.72]

**Sec. 19. [18C.305] FERTILIZER FACILITIES.**

Subdivision 1. CONSTRUCTION PERMIT. A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:

(1) safeguards; or

(2) an existing facility used for the manufacture, blending, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site. [17.7155 s. 1]

Subd. 2. PERMIT FEES. (a) An application for a new facility must be accompanied by a nonrefundable application fee of \$100 for each location where fertilizer is stored.

(b) An application to substantially alter a facility must be accompanied by a nonrefundable \$50 fee.

(c) In addition to the fees under paragraphs (a) and (b), a fee of \$250 must be paid by an applicant who begins construction or substantial alteration before a permit is issued. [17.7155 s. 2]

(d) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of \$100.

New language is indicated by underline, deletions by ~~strikeout~~.

## REGISTRATION AND LICENSING

## Sec. 20. [18C.401] GENERAL LICENSING AND REGISTRATION CONDITIONS.

Subdivision 1. SUBSTANTIATION OF CLAIMS. The commissioner may require a person applying for a license or registration to manufacture or distribute a product for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. The commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota as evidence to substantiate claims and may accept or reject additional sources of evidence in evaluating a fertilizer, soil amendment, or plant amendment. The experimental evidence must relate to conditions in this state for which the product is intended. The commissioner may also require evidence of value when used as directed or recommended.

Subd. 2. INSUFFICIENT EVIDENCE. If the commissioner determines that the evidence submitted does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate the product's performance and usefulness.

Subd. 3. REFUSAL TO LICENSE OR REGISTER. The commissioner may refuse to license a person or register a specialty fertilizer, soil amendment, or plant amendment if:

(1) the application for license or registration is not complete;

(2) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents will not or is not likely to produce the results or effects claimed if used as directed;

(3) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents is not useful in this state; or

(4) the facility does not properly safeguard for bulk storage.

Subd. 4. CONDITIONAL LICENSE AND REGISTRATION. (a) After reviewing an application accompanied by the application fee, the commissioner may issue a conditional license or registration:

(1) to prevent unreasonable adverse effects on the environment; or

(2) if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims; or

(3) to correct minor label violations.

(b) The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The commissioner may revoke or modify a conditional license or registration if the commissioner finds that the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(d) The commissioner may deny issuance of a conditional license or registration if the commissioner determines that issuance of a license or registration is not warranted or that the use to be made of the product under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

**Sec. 21. [18C.405] PROTECTION OF TRADE SECRETS.**

Subdivision 1. NOTATION OF PROTECTED INFORMATION. In submitting data required by this chapter, the applicant may:

(1) clearly mark any portions that in the applicant's opinion are trade secrets, or commercial or financial information; and

(2) submit the marked material separately from other material.

Subd. 2. PROTECTION OF INFORMATION BY COMMISSIONER. (a) After consideration of the applicant's request submitted under subdivision 1, the commissioner may not allow the information to become public that the commissioner determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

(b) If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under paragraph (a), the commissioner must notify the applicant or registrant by certified mail. The commissioner may not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may begin an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

**Sec. 22. [18C.411] REGISTRATION OF SPECIALTY FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS.**

Subdivision 1. REGISTRATION REQUIRED. (a) A person may not sell brands or grades of specialty fertilizers, soil amendments, or plant amendments in this state unless they are registered with the commissioner. [17.714 s. 1]

(b) Registration of the materials is not a warranty by the commissioner or the state. [17.714 s. 6]

(c) Specialty fertilizers custom applied are exempt from the registration requirements of this section.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. APPLICATION. The application for registration must include:

(1) for specialty fertilizers:

(i) the name and address of the guarantor and registrant;

(ii) the brand and grade;

(iii) the guaranteed analysis as required by section 12;

(iv) the sources from which nitrogen, phosphorus, potassium or other elements or materials are derived; and

(v) the amount and formulas of inert ingredients; and

(2) for soil amendments and plant amendments:

(i) the name and address of the guarantor and registrant;

(ii) the brand name;

(iii) the sources from which the ingredients used in the product are derived;  
and

(iv) the guaranteed analysis as required by section 12. [17.714 s. 2]

Subd. 3. COPY OF LABEL, AND LABELING MATERIAL. Application for registration of a specialty fertilizer, a soil amendment, or a plant amendment must include:

(1) a label or label facsimile of each product for which registration is requested;  
and

(2) a copy of all labeling material used in this state for promotion and sale of each product being registered. [17.714 s. 3]

Subd. 4. YEARLY REGISTRATION. A registration is effective until January 1 following the date of issuance or approval. A product registration is not transferable from one person to another or from the ownership to whom the registration is issued to another ownership. [17.714 s. 5]

#### Sec. 23. [18C.415] FERTILIZER LICENSES.

Subdivision 1. LICENSE REQUIRED. (a) A person may not sell or distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or manufacture, blend, or otherwise manipulate fertilizers without obtaining a license from the commissioner from each fixed location where the person does business within the state and one license for all fixed locations that are located outside of the state. [17.715 s. 1, 2]

(b) A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit. [17.715 s. 3]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. COPY OF LABEL AND LABELING MATERIAL. Application for license must include:

(1) a designation of the formula such as is provided on an invoice, delivery ticket, label, or label facsimile, for each product manufactured or formulated; and

(2) a copy of all labeling material used in this state for promotion of each product manufactured or formulated.

Subd. 3. EFFECTIVE PERIOD. Other licenses are for the period from January 1 to the following December 31 and must be renewed annually by the licensee before January 1. A license is not transferable from one person to another, from the ownership to whom issued to another ownership, or from one location to another location. [17.715 s. 4]

Subd. 4. POSTING OF LICENSE. The license must be posted in a conspicuous place in each fixed location in this state and accompany each mobile mechanical unit operated in this state. [17.715 s. 5]

#### Sec. 24. [18C.421] DISTRIBUTOR'S TONNAGE REPORT.

Subdivision 1. SEMIANNUAL STATEMENT. (a) Each licensed distributor of fertilizer and each registrant of a specialty fertilizer, soil amendment, or plant amendment must file a semiannual statement for the periods ending December 31 and June 30 with the commissioner on forms furnished by the commissioner stating the number of net tons of each brand or grade of fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period.

(b) A report from a licensee who sells to an ultimate consumer must be accompanied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received.

(c) The report is due on or before the last day of the month following the close of each reporting period of each calendar year.

(d) The inspection fee at the rate stated in section 25, subdivision 6, must accompany the statement. [17.718 s. 1]

Subd. 2. ADDITIONAL REPORTS. The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state. [17.718 s. 1]

Subd. 3. LATE REPORT AND FEE PENALTY. (a) If a distributor does not file the semiannual statement or pay the inspection fees by 31 days after the end of the reporting period, the commissioner shall assess a penalty of the greater of \$25 or ten percent of the amount due against the licensee or registrant.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The fees due, plus the penalty, may be recovered in a civil action against the licensee or registrant.

(c) The assessment of the penalty does not prevent the commissioner from taking other actions as provided in this chapter. [17.718 s. 1]

Subd. 4. RESPONSIBILITY FOR INSPECTION FEES. If more than one person is involved in the distribution of a fertilizer, soil amendment, or plant amendment, the distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered is responsible for the inspection fee on products produced or brought into this state. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer. [17.718 s. 2]

Subd. 5. VERIFICATION OF STATEMENTS. The commissioner may verify the records on which the statement of tonnage is based. [17.718 s. 3]

#### Sec. 25. [18C.425] REGISTRATION, LICENSE, AND INSPECTION FEES.

Subdivision 1. APPLICATION FEES. (a) An application for other licenses for each fixed location to be covered by the license within the state must be accompanied by a \$100 fee.

(b) An application for a license for all fixed locations of a firm outside of the state must be accompanied by a fee of \$100.

(c) An application for a license to cover mobile mechanical units must be accompanied by a fee of \$100 for the first unit operated by one distributor and \$50 for each additional mobile mechanical unit. [17.717 s. 1]

Subd. 2. SPECIALTY FERTILIZER REGISTRATION. An application for registration of a specialty fertilizer must be accompanied by a registration fee of \$100 for each brand and grade to be sold or distributed as provided in section 22. [17.717 s. 3]

Subd. 3. SOIL AMENDMENT AND PLANT AMENDMENT REGISTRATION. An application for registration of a soil amendment or plant amendment must be accompanied by a registration fee of \$200 for each brand sold or distributed as provided in section 22. [17.717 s. 4]

Subd. 4. FEE FOR LATE APPLICATION. If an application for renewal of a fertilizer license or registration of a specialty fertilizer, soil amendment, or plant amendment is not filed before January 1 or July 1 of a year, as required, an additional application fee of one-half of the amount due must be paid before the renewal license or registration may be issued. [17.717 s. 4a]

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 5. FEE FOR PRODUCT USE WITHOUT INITIAL REGISTRATION OR LICENSE.** An additional application fee equal to the amount due must be paid by an applicant for each license or registration required for products distributed or used in this state before an initial license or registration for the products distributed or used is issued by the commissioner.

**Subd. 6. INSPECTION FEES.** A person who sells or distributes fertilizers, soil amendments, or plant amendments in this state must pay an inspection fee amounting to the greater of 15 cents per ton of fertilizer, soil amendment, and plant amendment sold or distributed in this state or \$10. Products sold or distributed to manufacturers or exchanged between them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes. [17.717 s. 5]

#### INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIALS

##### Sec. 26. [18C.501] DEFINITIONS.

**Subdivision 1. APPLICABILITY.** The definitions in this section apply to sections 26 to 31. [17.7241 s. 1]

**Subd. 2. COMMISSIONER.** "Commissioner" means the commissioner of agriculture. [17.7241 s. 2]

**Subd. 3. INDUSTRIAL BY-PRODUCT SOIL BUFFERING MATERIAL.** "Industrial by-product soil buffering material" means an industrial waste or by-product or the by-product of municipal water treatment processes containing calcium or magnesium or both in a form that may neutralize soil acidity. [17.7241 s. 3]

**Subd. 4. LIMESTONE.** "Limestone" means a material consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity. [17.7241 s. 4]

**Subd. 5. SOIL BUFFERING MATERIALS.** "Soil buffering materials" means materials whose calcium or magnesium or both are capable of neutralizing soil acidity. [17.7241 s. 5]

**Subd. 6. STOCKPILE.** "Stockpile" means a supply of agricultural soil buffering material stored for future use. [17.7241 s. 6]

**Subd. 7. TNP.** "TNP" means total neutralizing power and is the number of pounds of neutralizing value in one ton of a soil buffering material. [17.7241 s. 7]

##### Sec. 27. [18C.505] SOIL BUFFERING DEMONSTRATION PROJECT AND STUDY.

**Subdivision 1. PURPOSE.** The purpose of the demonstration project required under sections 26 to 31 is to identify appropriate and mutually beneficial meth-

New language is indicated by underline, deletions by ~~strikeout~~.

ods for the use of industrial by-product soil buffering materials. Proper use will minimize current waste disposal problems, provide a market for an underutilized resource, and make available to farmers an effective, low-cost soil buffering product. [17.7242 s. 1]

Subd. 2. AUTHORITY. The commissioner shall coordinate the design and implementation of a demonstration project to examine the technical feasibility, economic benefits, and environmental impacts of using industrial by-product soil buffering materials as a substitute for limestone and other traditional soil buffering materials. [17.7242 s. 2]

Subd. 3. PROCEDURES DEVELOPED. The demonstration project must identify and recommend as proposed standards appropriate procedures for the sampling, analysis, TNP labeling, storage, stockpiling, transportation, and application of industrial by-product soil buffering materials. After TNP labeling standards have been established, they must be provided to the landowner or tenant prior to land application or stockpiling. [17.7242 s. 3]

Subd. 4. SCOPE. The demonstration project must be on a scale deemed by the commissioner to be efficient and manageable while providing the greatest practicable use of industrial by-product soil buffering materials for agricultural purposes. [17.7242 s. 4]

#### Sec. 28. [18C.511] RESPONSIBILITIES OF THE COMMISSIONER.

Subdivision 1. BROAD PARTICIPATION. The commissioner shall seek participation in the demonstration project by other persons, institutions, and organizations having an interest in soil buffering materials and industrial by-product soil buffering materials including the pollution control agency, one or more counties, one or more soil and water conservation districts, and the University of Minnesota. [17.7243 s. 1]

Subd. 2. PUBLIC EDUCATION. The commissioner shall seek to maximize the public education benefit of the demonstration program. [17.7243 s. 2]

#### Sec. 29. [18C.515] ENVIRONMENTAL CONTROLS.

Subdivision 1. SAMPLING AND ANALYSIS. The commissioner and the commissioner's agents may sample, inspect, make analysis of, and test industrial by-product soil buffering materials used in the demonstration project and study at a time and place and to an extent the commissioner considers necessary to determine whether the industrial by-product soil buffering materials are suitable for the project. The commissioner and the commissioner's agents may enter public or private premises where demonstration projects are being conducted in order to have access to:

(1) soil buffering materials used in the demonstration project;

(2) sampling of sites actually or reportedly exposed to industrial by-product soil buffering materials;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) inspection of storage, handling, transportation, use, or disposal areas of industrial by-product soil buffering materials;

(4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;

(5) observation of the use and application of the soil buffering material;

(6) inspection of records related to the production, transportation, stockpiling, use, or disposal of industrial by-product soil buffering material; and

(7) other purposes necessary to implement sections 26 to 31. [17.7244 s. 1]

Subd. 2. RECEIPT AND REPORT ON SAMPLES. Before leaving inspected premises, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge. [17.7244 s. 2]

Subd. 3. EMERGENCY INSPECTION. The commissioner and the commissioner's agents may enter public or private property without a notice of inspection if a suspected incident involving industrial by-product soil buffering materials may threaten public health or the environment. [17.7244 s. 3]

#### Sec. 30. [18C.521] REPORT.

The commissioner shall report to the committees on agriculture of the house of representatives and senate on March 1 of each year, about the activities, findings, and recommendations related to the demonstration project. [17.7245]

#### Sec. 31. [18C.525] EXEMPTION.

Sections 26 to 31 do not apply to industrial by-product soil buffering material produced at a facility if the University of Minnesota, North Central Experimental Station, has conducted a study of the material at that facility. [17.7246]

#### Sec. 32. CROP CONSULTANT CERTIFICATION.

The commissioner shall, in consultation with the Minnesota extension service and the consultant community, develop recommendations for a mandatory state crop consultant certification program and report its recommendations to the governor and legislature by November 15, 1990. The program shall include consideration of educational requirements, current professional certification programs, and certification subcategories based on the need for consultant specialization.

#### Sec. 33. FERTILIZER PRACTICES.

Subdivision 1. COMMISSIONER'S DUTIES. The commissioner shall:

(1) establish best management practices and water resources protection

New language is indicated by underline, deletions by ~~strikeout~~.

requirements involving fertilizer use, distribution, storage, handling, and disposal:

(2) cooperate with other state agencies and local governments to protect public health and the environment from harmful exposure to fertilizer; and

(3) appoint a task force to study the effects and impact on water resources from nitrogen fertilizer use so that best management practices, a fertilizer management plan, and nitrogen fertilizer use regulations can be developed.

Subd. 2. TASK FORCE. (a) The task force must include farmers, representatives from farm organizations, the fertilizer industry, University of Minnesota, environmental groups, representatives of local government involved with comprehensive local water planning, and other state agencies, including the pollution control agency, the department of health, the department of natural resources, the state planning agency, and the board of water and soil resources.

(b) The task force shall review existing research including pertinent research from the University of Minnesota and shall develop recommendations for a nitrogen fertilizer management plan for the prevention, evaluation, and mitigation of nonpoint source occurrences of nitrogen fertilizer in waters of the state. The nitrogen fertilizer management plan must include components promoting prevention and developing appropriate responses to the detection of inorganic nitrogen from fertilizer sources in ground or surface water.

(c) The task force shall report its recommendations to the commissioner by May 1, 1990. The commissioner shall report to the environmental quality board by July 1, 1990, on the task force's recommendations. The recommendations of the task force shall be incorporated into an overall nitrogen plan prepared by the pollution control agency and the department of agriculture.

#### Sec. 34. REPEALER.

Minnesota Statutes 1988, sections 17.711; 17.712; 17.713; 17.714; 17.715; 17.7155; 17.716; 17.717; 17.718; 17.719; 17.72; 17.721; 17.722; 17.723; 17.7241; 17.7242; 17.7243; 17.7244; 17.7245; 17.7246; 17.725; 17.726; 17.727; 17.728; 17.7285; 17.729; and 17.73, are repealed.

Sections 26 to 31 are repealed June 30, 1991.

New language is indicated by underline, deletions by ~~strikeout~~.

## ARTICLE 7

## CHAPTER 18D

## AGRICULTURAL CHEMICAL LIABILITY, INCIDENTS, AND ENFORCEMENT

## Section 1. [18D.01] DEFINITIONS.

Subdivision 1. DEFINITIONS IN CHAPTERS 18B AND 18C APPLY. The definitions in chapters 18B and 18C apply to this chapter.

Subd. 2. APPLICABILITY OF DEFINITIONS IN THIS SECTION. The definitions in this section apply to this chapter.

Subd. 3. AGRICULTURAL CHEMICAL. "Agricultural chemical" means a pesticide as defined under chapter 18B or a fertilizer, plant amendment, or soil amendment as defined under chapter 18C.

Subd. 4. CORRECTIVE ACTION. "Corrective action" means an action taken to minimize, eliminate, or clean up an incident.

Subd. 5. HAZARDOUS WASTE. "Hazardous waste" means a substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.

Subd. 6. INCIDENT. "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, escape, disposal, or other event that releases or immediately threatens to release an agricultural chemical accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.

Subd. 7. OWNER OF REAL PROPERTY. "Owner of real property" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant.

Subd. 8. PERSON. "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision. [17.713 s. 15]

Subd. 9. PROVISION OF THIS CHAPTER. "Provision of this chapter" means a provision of this chapter, chapter 18B, chapter 18C, or a rule adopted under those chapters.

Subd. 10. RESPONSIBLE PARTY. "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a

New language is indicated by underline, deletions by ~~strikeout~~.

pesticide, fertilizer, pesticide or fertilizer container, or pesticide or fertilizer rinsate.

## AGRICULTURAL CHEMICAL APPLICATION LIABILITY

### Sec. 2. [18D.101] LIABILITY FOR APPLICATION.

(a) Notwithstanding other law relating to liability for agricultural chemical use, an end user or landowner is not liable for the cost of active cleanup, or damages associated with or resulting from agricultural chemicals in groundwater if the person has applied or has had others apply agricultural chemicals in compliance with state law, with any applicable labeling, and orders of the commissioner.

(b) It is a complete defense for liability if the person has complied with the provisions in paragraph (a).

## INCIDENTS

### Sec. 3. [18D.103] REPORT OF INCIDENTS REQUIRED.

Subdivision 1. REPORT TO COMMISSIONER. A responsible party or an owner of real property must, on discovering an incident has occurred, immediately report the incident to the commissioner.

Subd. 2. WRITTEN REPORT. The responsible party must submit a written report of the incident to the commissioner in the form and by the time prescribed by the commissioner.

### Sec. 4. [18D.105] CORRECTIVE ACTION ORDERS.

Subdivision 1. CORRECTIVE ACTION ORDERS. (a) After determining an incident has occurred, the commissioner may order the responsible party to take reasonable and necessary corrective actions.

(b) The commissioner shall notify the owner of real property where corrective action is ordered that access to the property will be required for the responsible party or the commissioner to take corrective action.

(c) A political subdivision may not request or order any person to take an action that conflicts with the corrective action ordered by the commissioner.

(d) The attorney general on request of the commissioner may bring an action to compel corrective action.

Subd. 2. COMMISSIONER'S CORRECTIVE ACTIONS. The commissioner may take corrective action if:

(1) a responsible party cannot be identified; or

New language is indicated by underline, deletions by ~~strikeout~~.

(2) an identified responsible party cannot or will not comply with a corrective action order issued under subdivision 1.

Subd. 3. EMERGENCY CORRECTIVE ACTION. (a) To assure an adequate response to an incident, the commissioner may take corrective action without following the procedures of subdivision 1 if the commissioner determines that the incident constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.

(b) Before taking an action under this subdivision, the commissioner must make all reasonable efforts, taking into consideration the urgency of the situation, to order a responsible party to take a corrective action and notify the owner of real property where the corrective action is to be taken.

Subd. 4. AGRICULTURE IS LEAD AGENCY. The department of agriculture is the lead state agency in taking corrective action for incidents.

#### Sec. 5. [18D.111] LIABILITY FOR COSTS.

Subdivision 1. CORRECTIVE ACTION COSTS. (a) A responsible party is liable for the costs, including for a corrective action administrative cost incurred after the corrective action order has been issued, or for emergency corrective action, all costs. The commissioner may issue an order for recovery of the costs.

(b) A responsible party is liable for the costs of any destruction to wildlife. Payments of costs for wildlife destruction shall be deposited in the game and fish fund of the state treasury.

Subd. 2. OWNER OF REAL PROPERTY. An owner of real property is not a responsible party for an incident on the owner's property unless that owner:

(1) was engaged in manufacturing, formulating, transporting, storing, handling, applying, distributing, or disposing of an agricultural chemical on the property;

(2) knowingly permitted any person to make regular use of the property for disposal of agricultural chemicals; or

(3) violated this chapter in a way that contributed to the incident.

Subd. 3. LIABILITY FOR EMPLOYEES. A person licensed under chapter 18B or chapter 18C is civilly liable for violations of this chapter, chapter 18B, or chapter 18C by the person's employees and agents.

Subd. 4. AVOIDANCE OF LIABILITY. (a) A responsible party may not avoid liability by means of a conveyance of a right, title, or interest in real property, or by an indemnification, hold harmless agreement, or similar agreement.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) This subdivision does not:

(1) prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability;

(2) prohibit the enforcement of an insurance, hold harmless, or indemnification agreement; or

(3) bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

Subd. 5. DEFENSE. As a defense to a penalty or liability for damages, a person may prove that a violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or a combination of these defenses.

#### **Sec. 6. [18D.115] APPORTIONMENT OF LIABILITY AND CONTRIBUTION.**

Subdivision 1. RIGHT OF APPORTIONMENT. (a) A responsible party held liable under this chapter has the right to have the trier of fact apportion liability among the responsible parties as provided in this section. The burden is on each responsible party to show how that responsible party's liability should be apportioned. The trier of fact shall reduce the amount of damages in proportion to the amount of liability apportioned to the party recovering.

(b) In apportioning the liability of a party under this section, the trier of fact shall consider the following:

(1) the extent to which that responsible party contributed to the incident;

(2) the amount of agricultural chemical involved;

(3) the degree of toxicity of the agricultural chemical involved;

(4) the degree of involvement of and care exercised by the responsible party in manufacturing, formulating, handling, storing, distributing, transporting, applying, and disposing of the agricultural chemical;

(5) the degree of cooperation by the responsible party with federal, state, or local officials to prevent any harm to the public health or the environment; and

(6) knowledge by the responsible party of the hazardous nature of the agricultural chemical.

Subd. 2. CONTRIBUTION. If a responsible party is held liable under this chapter and establishes a proportionate share of the aggregate liability, the provisions of section 604.02, subdivisions 1 and 2, shall apply with respect to contribution and reallocation of any uncollectible amounts, except that an administrative law judge may also perform the functions of a court identified in section 604.02, subdivision 2.

New language is indicated by underline, deletions by ~~strikeout~~.

## INSPECTION

## Sec. 7. [18D.201] INSPECTION, SAMPLING, ANALYSIS.

Subdivision 1. ACCESS AND ENTRY. (a) The commissioner, upon presentation of official department credentials, must be granted access at reasonable times without delay to sites:

(1) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports an agricultural chemical; or

(2) which the commissioner reasonably believes are affected, or possibly affected, by the use of an agricultural chemical, agricultural chemical container, agricultural chemical rinsate, or agricultural chemical device in violation of this chapter.

(b) The commissioner may enter sites for:

(1) inspection of equipment for the manufacture, formulation, blending, distribution, disposal, or application of agricultural chemicals and the premises on which the equipment is stored;

(2) sampling of sites actually or reportedly exposed to agricultural chemicals;

(3) inspection of storage, handling, distribution, use, or disposal areas of agricultural chemicals or their containers;

(4) inspection or investigation of complaints of injury to the environment;

(5) sampling of agricultural chemicals;

(6) observation of the use and application of an agricultural chemical;

(7) inspection of records related to the manufacture, distribution, storage, handling, use, or disposal of an agricultural chemical;

(8) investigating the source, nature, and extent of an incident, and the extent of the adverse effects on the environment; and

(9) other purposes necessary to implement this chapter, chapter 18B, or 18C.

(c) The commissioner may enter any public or private premises during or after regular business hours without a notice of inspection when a suspected incident may threaten public health or the environment.

Subd. 2. NOTICE OF INSPECTION SAMPLES AND ANALYSES. (a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the

New language is indicated by underline, deletions by ~~strikeout~~.

analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The methods of sampling and analysis must be those adopted by the United States Environmental Protection Agency or the association of official analytical chemists. In cases not covered by those methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.

(c) In sampling a lot of agricultural chemical that is registered, a single package may constitute the official sample.

**Subd. 3. INSPECTION REQUESTS BY OTHERS.** (a) A person who believes that a violation of this chapter has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.

(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.

(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.

**Subd. 4. ORDER TO ENTER AFTER REFUSAL.** After a refusal or an anticipated refusal based on a prior refusal to allow entrance on a prior occasion by an owner, operator, or agent in charge to allow entry as specified in this chapter, the commissioner may apply for an order in the district court in the county where a site is located, that compels a person with authority to allow the commissioner to enter and inspect the site.

**Subd. 5. VIOLATOR LIABLE FOR INSPECTION COSTS.** (a) The cost of reinspection and reinvestigation may be assessed by the commissioner if the person subject to the corrective action order or remedial action order does not comply with the order in a reasonable time as provided in the order.

(b) The commissioner may enter an order for recovery of the inspection and investigation costs.

**Subd. 6. INVESTIGATION AUTHORITY.** (a) In making inspections under this chapter, the commissioner may administer oaths, certify official acts, issue subpoenas to take and cause to be taken depositions of witnesses, and compel

New language is indicated by underline, deletions by ~~strikeout~~.

the attendance of witnesses and production of papers, books, documents, records, and testimony.

(b) If a person fails to comply with a subpoena, or a witness refuses to produce evidence or to testify to a matter about which the person may be lawfully questioned, the district court shall, on application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in court.

#### ENFORCEMENT

##### Sec. 8. [18D.301] ENFORCEMENT.

Subdivision 1. ENFORCEMENT REQUIRED. (a) The commissioner shall enforce this chapter and chapters 18B and 18C.

(b) Violations of chapter 18B or chapter 18C or rules adopted under chapter 18B or chapter 18C are a violation of this chapter.

(c) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter or special orders, standards, stipulations, and agreements of the commissioner.

Subd. 2. COMMISSIONER'S DISCRETION. If minor violations of this chapter, chapter 18B, or chapter 18C occur or when the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this chapter does not require the commissioner to:

- (1) report the violation for prosecution;
- (2) institute seizure proceedings; or
- (3) issue a withdrawal from distribution or stop-sale order. [17.728 s. 3]

Subd. 3. CIVIL ACTIONS. Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Subd. 4. INJUNCTION. The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of this chapter.

Subd. 5. CRIMINAL ACTIONS. For a criminal action, the county attorney from the county where a criminal violation occurred is responsible for prosecuting a violation of this chapter. If the county attorney refuses to prosecute, the attorney general on request of the commissioner may prosecute.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. AGENT FOR SERVICE OF PROCESS. All nonresident commercial and structural pest control applicator licensees licensed as individuals must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee.

Sec. 9. [18D.305] ADMINISTRATIVE ACTION.

Subdivision 1. ADMINISTRATIVE REMEDIES. The commissioner may seek to remedy violations by a written warning, administrative meeting, cease and desist, stop-use, stop-sale, removal, correction order, or other special order, seizure, stipulation, agreement, or administrative penalty, if the commissioner determines that the remedy is in the public interest.

Subd. 2. REVOCATION AND SUSPENSION. The commissioner may, after written notice and hearing, revoke, suspend, or refuse to grant or renew a registration, permit, license, or certification if a person violates a provision of this chapter or has a history within the last three years of violations of this chapter.

Subd. 3. CANCELLATION OF REGISTRATION. (a) The commissioner may cancel the registration of a specialty fertilizer, soil amendment, or plant amendment or refuse to register a brand of specialty fertilizer, soil amendment, or plant amendment after receiving satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this chapter.

(b) Registration may not be revoked until the registrant has been given opportunity for a hearing by the commissioner. [17.728 s. 1]

Subd. 4. CANCELLATION OF LICENSE. (a) The commissioner may cancel a license issued under this chapter after receiving satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this chapter.

(b) A license may not be revoked until the licensee has been given opportunity for a hearing by the commissioner. [17.728 s. 2]

Subd. 5. CANCELLATION OF FACILITY AND EQUIPMENT APPROVAL. (a) The commissioner may cancel the approval of a facility or equipment if:

(1) hazards to people's lives, adjoining property, or the environment exist; or

(2) there is satisfactory evidence that the person to whom the approval was issued has used fraudulent or deceptive practices to evade or attempt to evade the provisions of this chapter.

(b) An approval may not be canceled until the person has been given an opportunity for a hearing by the commissioner. [17.728 s. 2a]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. SERVICE OF ORDER OR NOTICE. (a) If a person is not available for service of an order, the commissioner may attach the order to the agricultural chemical container, rinsate, equipment, or device or facility and notify the owner, custodian, other responsible party, or registrant.

(b) The agricultural chemical container, rinsate, equipment, or device may not be sold, used, or removed until the agricultural chemical container, rinsate, equipment, or device has been released under conditions specified by the commissioner, by an administrative law judge, or by a court.

**Sec. 10. [18D.311] DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.**

If the commissioner did not have probable cause for an administrative action, including the issuance of a stop-sale, stop-use, or removal order, a court may allow recovery for damages caused by the administrative action.

**Sec. 11. [18D.315] ADMINISTRATIVE PENALTIES.**

Subdivision 1. ASSESSMENT. (a) In determining the amount of the administrative penalty, the commissioner shall consider the economic gain received by the person allowing or committing the violation, the gravity of the violation in terms of actual or potential damage to human health and the environment, and the violator's culpability, good faith, and history of violations.

(b) The commissioner may assess an administrative penalty of up to \$1,500 per day for a violation of a corrective action order or remedial action order.

(c) An administrative penalty may be assessed if the person subject to a corrective action order or remedial action order does not comply with the order in the time provided in the order. The commissioner must state the amount of the administrative penalty in the corrective action order or remedial action order.

Subd. 2. COLLECTION OF PENALTY. (a) If a person subject to an administrative penalty fails to pay the penalty, which must be part of a final order by the commissioner, by 30 days after the final order is issued, the commissioner may commence a civil action for double the assessed penalty plus attorney fees and costs.

(b) An administrative penalty may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office.

**Sec. 12. [18D.321] APPEAL OF COMMISSIONER'S ORDERS.**

Subdivision 1. NOTICE OF APPEAL. (a) After service of an order, a person has 45 days from receipt of the order to notify the commissioner in writing that the person intends to contest the order.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) If the person fails to notify the commissioner that the person intends to contest the order, the order is a final order of the commissioner and not subject to further judicial or administrative review.

Subd. 2. ADMINISTRATIVE REVIEW. If a person notifies the commissioner that the person intends to contest an order issued under this chapter, the state office of administrative hearings shall conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.

Subd. 3. JUDICIAL REVIEW. Judicial review of a final decision in a contested case is available as provided in chapter 14.

### Sec. 13. [18D.325] CIVIL PENALTIES.

Subdivision 1. GENERAL PENALTY. Except as provided in subdivisions 2 and 3, a person who violates this chapter, chapter 18B or 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$7,500 per day of violation as determined by the court.

Subd. 2. DISPOSAL THAT BECOMES HAZARDOUS WASTE. A person who violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of agricultural chemicals so that they become hazardous waste, is subject to the penalties in section 115.071.

Subd. 3. DEFENSE TO CIVIL REMEDIES AND DAMAGES. As a defense to a civil penalty or claim for damages under subdivisions 1 and 2, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Subd. 4. ACTIONS TO COMPEL PERFORMANCE. In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 5. RECOVERY OF PENALTIES BY CIVIL ACTION. The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

### Sec. 14. [18D.331] CRIMINAL PENALTIES.

Subdivision 1. GENERAL VIOLATION. Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor if the person violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. VIOLATION ENDANGERING HUMANS. A person is guilty of a gross misdemeanor if the person violates a provision of this chapter, chapter 18B, or chapter 18C or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.

Subd. 3. VIOLATION WITH KNOWLEDGE. A person is guilty of a gross misdemeanor if the person knowingly violates a provision of this chapter, chapter 18B, or chapter 18C or a standard, special order, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 4. DISPOSAL THAT BECOMES HAZARDOUS WASTE. A person who knowingly, or with reason to know, disposes of an agricultural chemical so that the product becomes hazardous waste is subject to the penalties in section 115.071.

---

## ARTICLE 8

### CHAPTER 18E

#### AGRICULTURAL CHEMICAL INCIDENT PAYMENT AND REIMBURSEMENT

##### Section 1. [18E.01] CITATION.

This chapter may be cited as the agricultural chemical response and reimbursement law.

##### Sec. 2. [18E.02] DEFINITIONS.

Subdivision 1. DEFINITIONS IN CHAPTERS 18B, 18C, AND 18D APPLY. The definitions contained in this section and chapters 18B, 18C, and 18D apply to this chapter.

Subd. 2. ACCOUNT. "Account" means the agricultural chemical response and reimbursement account.

Subd. 3. AGRICULTURAL CHEMICAL. "Agricultural chemical" means pesticide, fertilizer, plant amendment, or soil amendment but does not include nitrate and related nitrogen from a natural source.

Subd. 4. BOARD. "Board" means the agricultural chemical response compensation board.

Subd. 5. ELIGIBLE PERSON. "Eligible person" means a responsible party or an owner of real property, but does not include the state, a state agency, a political subdivision of the state, the federal government, or an agency of the federal government.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 3. [18E.03] AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT.**

Subdivision 1. ESTABLISHMENT. The agricultural chemical response and reimbursement account is established as an account in the state treasury.

Subd. 2. EXPENDITURES. (a) Money in the agricultural chemical response and reimbursement account may only be used:

(1) to pay for the commissioner's responses to incidents under chapters 18B, 18C, and 18D that are not eligible for payment under section 115B.20, subdivision 2;

(2) to pay for emergency responses that are otherwise unable to be funded; and

(3) to reimburse and pay corrective action costs under section 4.

(b) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments as provided in this subdivision.

Subd. 3. DETERMINATION OF RESPONSE AND REIMBURSEMENT FEE. (a) The commissioner shall determine the amount of the response and reimbursement fee under subdivision 5 after a public hearing, but notwithstanding section 16A.128, based on:

(1) the amount needed to maintain a balance in the account of \$1,000,000;

(2) the amount estimated to be needed for responses to incidents as provided in subdivision 2, clauses (1) and (2); and

(3) the amount needed for payment and reimbursement under section 4.

(b) The commissioner shall determine the response and reimbursement fee so that the balance in the account does not exceed \$5 million.

(c) Money from the response and reimbursement fee shall be deposited in the treasury and credited to the agricultural chemical response and reimbursement account.

Subd. 4. FEE THROUGH 1990. (a) The response and reimbursement fee consists of the surcharge fees in this subdivision and shall be collected until December 31, 1990.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state for use in the state during the previous calendar quarter, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under article 6, section 25, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the license application of persons licensed under chapters 18B and 18C consisting of:

(1) a \$150 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a \$150 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under article 6, sections 23 and 25;

(3) a \$50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a \$20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a \$20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a \$50 surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

Subd. 5. FEE AFTER 1990. (a) The response and reimbursement fee after December 31, 1990, consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined under subdivision 3. The amount of the surcharges shall be proportionate to and may not exceed the surcharges in subdivision 4.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of sales of the pesticide in the state for use in the state during the previous calendar quarter, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under article 6, section 25, subdivision 6, for fertilizers, soil amendments, and plant amendments.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:

(1) a surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under article 6, sections 23 and 25;

(3) a surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

Subd. 6. REVENUE SOURCES. Revenue from the following sources must be deposited in the state treasury and credited to the agricultural chemical response and reimbursement account:

(1) the proceeds of the fees imposed by subdivisions 3 and 5;

(2) money recovered by the state for expenses paid with money from the account;

(3) interest attributable to investment of money in the account; and

(4) money received by the commissioner in the form of gifts, grants other than federal grants, reimbursements, and appropriations from any source intended to be used for the purposes of the account.

#### **Sec. 4. [18E.04] REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.**

Subdivision 1. REIMBURSEMENT OF RESPONSE COSTS. The commissioner shall reimburse an eligible person from the agricultural chemical response and reimbursement account for the reasonable and necessary costs incurred by

New language is indicated by underline, deletions by ~~strikeout~~.

the eligible person in taking corrective action as provided in subdivision 4, if the board determines:

(1) the eligible person complied with corrective action orders issued to the eligible person by the commissioner; and

(2) the incident was reported as required in chapters 18B, 18C, and 18D.

Subd. 2. PAYMENT OF CORRECTIVE ACTION COSTS. (a) On request by an eligible person, the board may pay the eligible person for the reasonable and necessary cash disbursements for corrective action costs incurred by the eligible person as provided under subdivision 4 if the board determines:

(1) the eligible person pays the first \$1,000 of the corrective action costs;

(2) the eligible person provides the board with a sworn affidavit and other convincing evidence that the eligible person is unable to pay additional corrective action costs;

(3) the eligible person continues to assume responsibility for carrying out the requirements of corrective action orders issued to the eligible person or that are in effect; and

(4) the incident was reported as required in chapters 18B, 18C, and 18D.

(b) An eligible person is not eligible for payment or reimbursement and must refund amounts paid or reimbursed by the board if false statements or misrepresentations are made in the affidavit or other evidence submitted to the commissioner to show an inability to pay corrective action costs.

Subd. 3. PARTIAL REIMBURSEMENT. If the board determines that an incident was caused by a violation of chapter 18B, 18C, or 18D, the board may reimburse or pay a portion of the corrective action costs of the eligible person based on the culpability of the eligible person and the percentage of the costs not attributable to the violation.

Subd. 4. REIMBURSEMENT PAYMENTS. (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:

(1) 90 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than \$100,000; and

(2) 100 percent of the total reasonable and necessary corrective action costs equal to or greater than \$100,000 but less than \$200,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

Subd. 5. REIMBURSEMENT OR PAYMENT DECISIONS. (a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.

(b) The board must issue an order granting or denying a request within 30 days following a request for reimbursement or for payment under subdivisions 1, 2, or 3.

(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.

(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.

Subd. 6. SUBROGATION. (a) If a person other than a responsible party is paid or reimbursed from the response reimbursement account as a condition of payment or reimbursement, the state is subrogated to the rights of action the person paid or reimbursed has against the responsible party. The commissioner shall collect the amounts from the responsible party and on request of the commissioner on behalf of the board the attorney general shall bring an action to enforce the collection.

(b) Amounts collected under this subdivision must be credited to the agricultural chemical response and reimbursement account.

**Sec. 5. [18E.05] AGRICULTURAL CHEMICAL RESPONSE COMPENSATION BOARD.**

Subdivision 1. MEMBERSHIP. (a) The agricultural chemical response compensation board is created to consist of the commissioner of agriculture, the commissioner of commerce, and three private industry members consisting of: one representative of agricultural chemical manufacturers and wholesalers; one representative of farmers; and one representative of dealers who sell the agricultural chemicals at retail. The governor shall appoint the private industry members. Appointment, vacancies, removal, terms, and payment of compensation and expenses of members, but not expiration of the board itself, are governed by section 15.0575.

(b) The commissioner of agriculture shall provide staff to support the activities of the board.

(c) The board shall adopt rules regarding its practices and procedures, the application form and procedures for determining eligibility for and the amount of reimbursement, and procedures for investigation of claims. The board may adopt emergency rules under this subdivision for one year from the effective date of this article.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. DUTIES. The board shall:

- (1) accept applications for reimbursement from the account;
- (2) determine the eligibility of applicants for reimbursement;
- (3) determine the amount of reimbursement due each eligible applicant and the reimbursement payment schedule where applicable; and
- (4) order reimbursement and notify the commissioner of the eligible person, the amount of reimbursement due, and the payment schedule, if any.

Subd. 3. PROCEDURES. The board must issue an order granting or denying a request within 30 days of receipt of a completed application unless the applicant and the commissioner agree to a longer time period. If the board denies reimbursement, its decision may be appealed in a contested case proceeding under chapter 14.

**Sec. 6. [18E.06] REPORT TO WATER COMMISSION.**

By November 1, 1990, and each year thereafter, the agricultural chemical response compensation board and the commissioner shall submit to the house of representatives committee on appropriations, the senate committee on finance, and the legislative water commission a report detailing the activities and reimbursements for which money from the account has been spent during the previous year.

Sec. 7. Minnesota Statutes 1988, section 115B.20, is amended to read:

**115B.20 ENVIRONMENTAL RESPONSE, COMPENSATION AND COMPLIANCE FUND.**

Subdivision 1. **ESTABLISHMENT.** (a) The environmental response, compensation and compliance fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2.

(b) The commissioner of finance shall administer a response account in the fund for the agency and the commissioner of agriculture to take removal, response, and other actions authorized under subdivision 2, clauses (1) to (4). The commissioner of finance shall allocate money from the response account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4).

(c) The commissioner of finance shall administer the account in a manner that allows the commissioner of agriculture and the agency to utilize the money in the account to implement their removal and remedial action duties as effectively as possible.

Subd. 2. **PURPOSES FOR WHICH MONEY MAY BE SPENT.** Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:

New language is indicated by underline, deletions by ~~strikeout~~.

~~(a)~~ (1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18D, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18D;

~~(b)~~ (2) removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, or taken or authorized by the commissioner of agriculture under chapter 18D including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(c)~~ (3) reimbursement to any private person for expenditures made before July 1, 1983 to provide alternative water supplies deemed necessary by the agency or the commissioner of agriculture and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

~~(d)~~ (4) removal and remedial actions taken or authorized by the agency or the commissioner of agriculture or the pollution control agency under section 115B.17, or chapter 18D, including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(e)~~ (5) compensation as provided by law, after submission by the waste management board of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

~~(f)~~ (6) planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

~~(g)~~ (7) inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

~~(h)~~ (8) grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation,

New language is indicated by underline, deletions by ~~strikeout~~.

pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

(~~g~~) (9) intervention and environmental mediation by the legislative commission on waste management under chapter 115A; and

(~~h~~) (10) grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state.

Subd. 3. **LIMIT ON CERTAIN EXPENDITURES.** The commissioner of agriculture or the pollution control agency or the agency may not spend any money under subdivision 2, clause (~~b~~) (2) or (~~d~~) (4), for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, United States Code, title 42, section 9600 et seq. The commissioner of agriculture or the pollution control agency or the agency shall determine the extent to which any of the costs of those actions may be compensated under the federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the commissioner of agriculture or the pollution control agency or the agency shall take into account:

(~~a~~) (1) the urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;

(~~b~~) (2) the availability of money in the funds established under the Federal Superfund Act; and

(~~e~~) (3) the consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.

Subd. 4. **REVENUE SOURCES.** Revenue from the following sources shall be deposited in the environmental response, compensation and compliance fund:

(~~a~~) (1) the proceeds of the taxes imposed pursuant to section 115B.22, including interest and penalties;

(~~b~~) (2) all money recovered by the state under sections 115B.01 to 115B.18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 116.12;

(~~e~~) (3) all interest attributable to investment of money deposited in the fund; and

(~~d~~) (4) all money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **RECOMMENDATION BY LCWM.** The legislative commission on waste management and the commissioner of agriculture shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations from the fund.

Subd. 6. **REPORT TO LEGISLATURE.** ~~By November 1, 1984, and~~ Each year ~~thereafter,~~ the commissioner of agriculture and the agency shall submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the environmental response, compensation and compliance fund has been spent during the previous fiscal year.

**Sec. 8. REVIEW OF PRIORITIES LIST.**

The commissioner of agriculture in consultation with the pollution control agency shall review the priorities list under section 115B.17, subdivision 13, and evaluate the appropriateness of the ranking criteria for agricultural chemical releases, and how groundwater in the state is protected from agricultural chemical releases based on the priorities and use of the fund. The commissioner of agriculture shall prepare a report and submit it to the legislative water commission and the legislature by January 1, 1990.

**Sec. 9. STUDY ON THE HEALTH AND RESPONSE RISKS OF AGRICULTURAL CHEMICALS.**

The commissioner of agriculture shall conduct a study and report and submit it to the legislature by January 15, 1990, on agricultural chemicals in the state that pose the greatest health risk and health hazard due to toxicity, amount used in the state, leachability, persistence, and other factors, and the agricultural chemicals that pose the greatest risk of incurring corrective action which would be reimbursed from the agricultural chemical response and reimbursement account.

The study and report must include a plan for assessing surcharges under section 3, subdivision 5.

**Sec. 10. EFFECTIVE DATE.**

Sections 3, 4, and 5 are effective July 1, 1990.

---

**ARTICLE 9**

**WATERSHED DISTRICTS**

**Section 1. METROPOLITAN LOCAL WATER MANAGEMENT TASK FORCE.**

Subdivision 1. ESTABLISHMENT AND PURPOSE. (a) A metropolitan local water management task force is established to study and prepare a report on the following issues:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) how to accomplish constructive public participation in and local coordination of local water management;

(2) how to avoid excessive public costs associated with the planning and implementation of capital improvement projects;

(3) whether adequate oversight exists of local water management activities to assure adherence to state law and approved watershed management plans;

(4) the procedures to be used in urbanizing areas to maintain, repair, improve, construct, and abandon public drainage systems;

(5) the appropriate methods for financing capital improvement projects;

(6) whether local water management levies and bonds should be exempt from levy limits and caps on net indebtedness;

(7) whether the metropolitan water management act has met its original expectations; and

(8) what changes are needed in state law or the structure of local watershed management organizations to achieve greater consistency and stability in metropolitan watershed management organizations.

(b) The task force shall elect a chair at its first meeting.

(c) The task force shall be given legal and technical staff support by the board of water and soil resources. The board of water and soil resources shall provide administrative support.

Subd. 2. MEMBERSHIP. The task force shall consist of:

(1) three members of the senate appointed by the majority leader;

(2) three members of the house of representatives appointed by the speaker;

(3) the chair and two additional members of the board of water and soil resources appointed by the chair;

(4) the state planning commissioner or the commissioner's designee;

(5) the commissioner of the department of natural resources or the commissioner's designee;

(6) the commissioner of the pollution control agency or the commissioner's designee;

(7) the chair of the metropolitan council or the chair's designee;

(8) a member of the association of metropolitan municipalities appointed by the chair of the board of water and soil resources;

New language is indicated by underline, deletions by ~~strikeout~~.

(9) a member of the Minnesota association of watershed districts appointed by the chair of the board of water and soil resources;

(10) a member of the association of Minnesota soil and water conservation districts appointed by the chair of the board of water and soil resources;

(11) a member representing watershed management organizations appointed by the chair of the board of water and soil resources;

(12) a member of the association of Minnesota counties appointed by the chair of the board of water and soil resources;

(13) a member of the metropolitan inter-county association appointed by the chair of the board of water and soil resources;

(14) a member representing consulting engineers appointed by the chair of the board of water and soil resources;

(15) a member representing the reinvest in Minnesota coalition appointed by the chair of the board of water and soil resources; and

(16) a resident of the state interested in metropolitan water management issues appointed by the chair of the board of water and soil resources.

Subd. 3. REPORT. The task force shall prepare a report and submit it to the governor and the legislature by December 15, 1989.

## **Sec. 2. COON CREEK WATERSHED DISTRICT.**

Subdivision 1. EXPENDITURES NOT CHARGED TO INDIVIDUAL DITCHES. Notwithstanding Minnesota Statutes, section 106A.725, the Coon Creek watershed district shall not charge back to public ditches number 11, 39, 44, 57, 58, 59, and 60 the \$143,140.94 spent prior to January 1, 1989, by the district from its administrative fund for legal and other administrative expenses on these ditches.

Subd. 2. EXPENDITURES CHARGED TO INDIVIDUAL DITCHES. The Coon Creek watershed district may impose ad valorem tax levies within the subwatersheds of public ditches number 11, 39, 44, 57, 59, and 60 to raise their individual proportionate shares of the \$207,169.50 needed to reimburse the district's administrative fund for advances made prior to January 1, 1989, to these ditch accounts for engineering expenses and maintenance and repair work. Levies made pursuant to this subdivision may be spread over up to five consecutive years and must be adopted and collected in accordance with the procedure in Minnesota Statutes, section 112.611.

## **Sec. 3. LOCAL APPROVAL.**

Section 2 is effective upon approval of the Coon Creek watershed board.

## **Sec. 4. EFFECTIVE DATE.**

New language is indicated by underline, deletions by ~~strikeout~~.

Section 1 is effective June 1, 1989.

ARTICLE 10

APPROPRIATION

Section 1. **APPROPRIATION.**

Subdivision 1. \$13,000,000 is appropriated from the general fund to the agencies and for the purposes indicated in this section, to be available for the fiscal year ending June 30 in the years indicated. Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

	<u>1990</u>	<u>1991</u>
	\$	\$
<u>Subd. 2. HEALTH</u>		
<u>(a) Promulgate health risk limits under article 1, section 8</u>	<u>125,000</u>	<u>125,000</u>
<u>(b) Water well management program under article 3</u>	<u>540,000</u>	<u>1,300,000</u>
<u>(c) Ensure safe drinking water under the safe drinking water act</u>	<u>1,410,000</u>	<u>1,190,000</u>

The approved complement of the department of health is increased by 30 positions in fiscal year 1990 and 20 additional positions in fiscal year 1991.

Subd. 3. AGRICULTURE

<u>(a) Sustainable agriculture program</u>	<u>50,000</u>	<u>50,000</u>
<u>(b) Monitor water quality, provide technical support, provide laboratory services</u>	<u>225,000</u>	<u>225,000</u>

The approved complement of the department of agriculture is increased by 37 positions, four in the general fund and 33 in the special revenue fund.

Subd. 4. BOARD OF WATER AND SOIL RESOURCES

<u>(a) Comprehensive local water - management</u>	<u>50,000</u>	<u>50,000</u>
---	---------------	---------------

New language is indicated by underline, deletions by ~~strikeout~~.

(b) Local water resources protection under article 2 for which grants the first year of the biennium may be made without rules

610,000                      2,610,000

(c) Environmental agriculture education under article 2, section 3

200,000                      200,000

(d) Well sealing cost-share grants under article 3, section 21

65,000                      465,000

(e) Study and preparation of metropolitan local water management task force

25,000

The approved complement of the board of water and soil resources is increased by three positions.

Subd. 5. LEGISLATIVE WATER COMMISSION

General operations under article 2, section 1

83,000                      87,000

Subd. 6. NATURAL RESOURCES

(a) Develop county atlas

185,000                      180,000

Priority for county atlas grants shall be given to counties in sensitive areas.

(b) Regional groundwater assessment, gauging, and technical assistance

950,000                      650,000

\$100,000 of this appropriation is to contract with the Minnesota geological survey to study the existence and source of high levels of natural radium in municipal water supplies and alternatives to reduce levels of natural radium in municipal water supplies.

The approved complement of the department of natural resources is increased by eight positions.

Subd. 7. POLLUTION CONTROL AGENCY

(a) Develop and implement best management practices and provide technical assistance under article 1

125,000                      125,000

New language is indicated by underline, deletions by ~~strikeout~~.

<u>(b) Integrated Groundwater Information System</u>	<u>125,000</u>	<u>125,000</u>
--	----------------	----------------

The approved complement of the pollution control agency is increased by five positions.

Subd. 8. STATE PLANNING AGENCY

<u>Maintain integrated, computerized groundwater monitoring data base under article 1, section 7</u>	<u>100,000</u>	<u>100,000</u>
--	----------------	----------------

Subd. 9. UNIVERSITY OF MINNESOTA

<u>(a) Integrated pest management</u>	<u>175,000</u>	<u>175,000</u>
---------------------------------------	----------------	----------------

This appropriation is intended to provide for three positions within the Minnesota extension service: one assistant integrated pest management coordinator, one agricultural integrated pest management specialists, and one urban integrated pest management specialist.

<u>(b) Research by agricultural experiment stations on the impact of agriculture on groundwater</u>	<u>150,000</u>	<u>150,000</u>
---	----------------	----------------

**Sec. 2. APPROPRIATION AND REIMBURSEMENT.**

\$1,000,000 is appropriated from the general fund to the response and reimbursement account to be used for the purposes of article 8. This amount must be reimbursed from the response and reimbursement account to the general fund from revenue to the response and reimbursement account by June 30, 1991.

Presented to the governor May 31, 1989

Signed by the governor June 2, 1989, 12:21 p.m.

**CHAPTER 327—S.F.No. 491**

*An act relating to health care; creating a health care access commission; requiring an implementation plan for a health care access program; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 62J.*

New language is indicated by underline, deletions by ~~strikeout~~.