

Sec. 2. Minnesota Statutes 1988, section 361.03, is amended by adding a subdivision to read:

Subd. 11a. SUSPENSION FOR NOT REMOVING EURASIAN OR NORTHERN WATER MILFOIL. The commissioner, after notice and an opportunity for hearing, may suspend for a period of not more than one year the license of a watercraft if the owner or person in control of the watercraft or its trailer refuses to comply with an order of a conservation officer or other licensed peace officer to remove Eurasian or Northern water milfoil, myriophyllum spicatum or exalbenscens, from the watercraft or its trailer as provided in section 18.317, subdivision 3.

Sec. 3. EFFECTIVE DATE.

This act is effective May 12, 1990.

Presented to the governor April 26, 1990

Signed by the governor May 3, 1990, 5:59 p.m.

CHAPTER 560—S.F.No. 2173

An act relating to the environment; providing assistance to eligible recipients on methods to prevent toxic pollution; providing financial assistance to research and demonstrate alternative means to prevent toxic pollution; requiring facilities to develop plans to prevent toxic pollution and to submit progress reports; imposing pollution prevention fees; providing for chlorofluorocarbon reduction; providing regulations relating to chlorofluorocarbons and halons; providing penalties; appropriating money; amending Minnesota Statutes 1988, section 116.70, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116 and 325E; proposing coding for new law as Minnesota Statutes, chapter 115D.

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

ARTICLE 1

MINNESOTA TOXIC POLLUTION PREVENTION ACT

Section 1. [115D.01] CITATION.

Sections 1 to 11 may be cited as the "Minnesota toxic pollution prevention act."

Sec. 2. [115D.02] POLICY.

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

(a) To protect the public health, welfare, and the environment, the legislature declares that it is the policy of the state to encourage toxic pollution prevention. The preferred means of preventing toxic pollution are techniques and processes that are implemented at the source and that minimize the transfer of toxic pollutants from one environmental medium to another.

(b) The legislature intends that the programs developed under this act shall encourage and lead to a greater awareness of the need for and benefits of toxic pollution prevention, and to a greater degree of cooperation and coordination among all elements of government, industry, and the public in encouraging and carrying out pollution prevention activities.

Sec. 3. [115D.03] DEFINITIONS.

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

Subd. 2. COMMISSION. "Commission" means the emergency response commission under section 299K.03.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of the pollution control agency.

Subd. 4. DIRECTOR. "Director" means the director of the office of waste management.

Subd. 5. ELIGIBLE RECIPIENTS. "Eligible recipients" means persons who use, generate, or release toxic pollutants, hazardous substances, or hazardous wastes.

Subd. 6. FACILITY. "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person, or by any person who controls, is controlled by, or is under common control with such person.

Subd. 7. PERSON. "Person" means any individual, partnership, association, public or private corporation or other entity including the United States government, any interstate body, the state and any agency, department or political subdivision of the state.

Subd. 8. POLLUTION PREVENTION OR PREVENT POLLUTION. "Pollution prevention" or "prevent pollution" means eliminating or reducing at the source the use, generation, or release of toxic pollutants, hazardous substances, and hazardous wastes.

Subd. 9. REDUCE, REDUCING, OR REDUCTION. "Reduce," "reducing," or "reduction" means lessening the quantity or toxicity of toxic pollutants, hazardous substances, and hazardous wastes used, generated, or released at the source. Methods of reducing pollution include, but are not limited to, process

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modification, inventory control measures, feedstock substitutions, various house-keeping and management practices, and improved efficiency of machinery. Decreases in quantity or toxicity are not reductions where the decrease is solely the result of a decrease in the output of the facility.

Subd. 10. RELEASE. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.

"Release" does not include:

(1) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;

(2) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under United States Code, title 42, section 2014, if the release is subject to requirements with respect to financial protection established by the federal Nuclear Regulatory Commission under United States Code, title 42, section 2210;

(3) release of source, by-product or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under United States Code, title 42, section 7912(a)(1) or 7942(a); or

(4) any release resulting from the application of fertilizer or agricultural or silvicultural chemicals, or disposal of emptied pesticide containers or residues from a pesticide as defined in section 18B.01, subdivision 18.

Subd. 11. TOXIC POLLUTANT. "Toxic pollutant" means a chemical identified in United States Code, title 42, section 11023(c).

Sec. 4. [115D.04] POLLUTION PREVENTION ASSISTANCE PROGRAM.

Subdivision 1. ESTABLISHMENT. The director shall establish a pollution prevention assistance program to assist eligible recipients in preventing pollution. The program must emphasize techniques and processes that minimize the transfer of pollutants from one environmental medium to another and must focus primarily on toxic pollutants.

Subd. 2. ASSISTANCE. The pollution prevention assistance program must include at least the following:

(1) a program to assemble, catalog, and disseminate information on pollution prevention;

(2) a program to provide technical research and assistance, including on-site consultations to identify alternative methods that may be applied to prevent pollution and to provide assistance for planning under section 7, excluding design engineering services; and

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(3) outreach programs including seminars, workshops, training programs, and other similar activities designed to provide pollution prevention information and assistance to eligible recipients.

Subd. 3. ADMINISTRATION. (a) The pollution prevention assistance program must be coordinated with other public and private programs that provide management and technical assistance to eligible recipients.

(b) The director may make grants to public or private entities to operate elements of the program. Grantees shall provide periodic reports on their efforts to assist eligible recipients to reduce pollution.

Sec. 5. [115D.05] POLLUTION PREVENTION GRANTS.

Subdivision 1. PURPOSE. The director may make grants to study or demonstrate the feasibility of applying specific technologies and methods to prevent pollution.

Subd. 2. ELIGIBILITY. (a) Eligible recipients may receive grants under this section.

(b) Grants may be awarded up to a maximum of two-thirds of the total cost of the project. Grant money awarded under this section may not be spent for capital improvements or equipment.

Subd. 3. PROCEDURE FOR AWARDING GRANTS. (a) In determining whether to award a grant, the director shall consider at least the following:

(1) the potential of the project to prevent pollution;

(2) the likelihood that the project will develop techniques or processes that will minimize the transfer of pollution from one environmental medium to another;

(3) the extent to which information to be developed through the project will be applicable to other persons in the state;

(4) the willingness of the grant applicant to implement feasible methods and technologies developed under the grant;

(5) the willingness of the grant applicant to assist the director in disseminating information about the pollution prevention methods to be developed through the project; and

(6) the extent to which the project will conform to the pollution prevention policy established in section 2.

(b) The director shall adopt rules to administer the grant program. Prior to completion of any new rulemaking, the director may administer the program under the procedures established in rules promulgated under section 115A.154.

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Sec. 6. [115D.06] GOVERNOR'S AWARD FOR EXCELLENCE IN POLLUTION PREVENTION.

The governor may issue annual awards in the form of a commendation for excellence in pollution prevention. Applications for these awards shall be administered by the director.

Sec. 7. [115D.07] TOXIC POLLUTION PREVENTION PLANS.

Subdivision 1. REQUIREMENT TO PREPARE AND MAINTAIN A PLAN. (a) Persons who operate a facility required by United States Code, title 42, section 11023, to submit a toxic chemical release form shall prepare a toxic pollution prevention plan for that facility. The plan must contain the information listed in subdivision 2.

(b) Except for facilities that release less than a total of 10,000 pounds of toxic pollutants annually, the plan must be completed as follows:

(1) on or before July 1, 1991, for facilities having a two-digit standard industrial classification of 35 to 39;

(2) by January 1, 1992, for facilities having a two-digit standard industrial classification of 28 to 34; and

(3) by July 1, 1992, for all other persons required to prepare a plan under this subdivision.

(c) Facilities that release less than a total of 10,000 pounds of toxic pollutants annually must complete their plans by July 1, 1992.

(d) Each plan must be updated every two years and must be maintained at the facility to which it pertains.

Subd. 2. CONTENTS OF PLAN. (a) Each toxic pollution prevention plan must establish a program identifying the specific technically and economically practicable steps that could be taken during at least the three years following the date the plan is due, to eliminate or reduce the generation or release of toxic pollutants reported by the facility. Toxic pollutants resulting solely from research and development activities need not be included in the plan.

(b) At a minimum, each plan must include:

(1) a policy statement articulating upper management support for eliminating or reducing the generation or release of toxic pollutants at the facility;

(2) a description of the current processes generating or releasing toxic pollutants that specifically describes the types, sources, and quantities of toxic pollutants currently being generated or released by the facility;

(3) a description of the current and past practices used to eliminate or

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reduce the generation or release of toxic pollutants at the facility and an evaluation of the effectiveness of these practices;

(4) an assessment of technically and economically practicable options available to eliminate or reduce the generation or release of toxic pollutants at the facility, including options such as changing the raw materials, operating techniques, equipment and technology, personnel training, and other practices used at the facility. The assessment may include a cost benefit analysis of the available options;

(5) a statement of objectives based on the assessment in clause (4) and a schedule for achieving those objectives. Wherever technically and economically practicable, the objectives for eliminating or reducing the generation or release of each toxic pollutant at the facility must be expressed in numeric terms. Otherwise, the objectives must include a clearly stated list of actions designed to lead to the establishment of numeric objectives as soon as practicable;

(6) an explanation of the rationale for each objective established for the facility;

(7) a listing of options that were considered not to be economically and technically practicable; and

(8) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting to the accuracy of the information in the plan.

Sec. 8. [115D.08] PROGRESS REPORTS.

Subdivision 1. REQUIREMENT TO SUBMIT PROGRESS REPORT. (a) All persons required to prepare a toxic pollution prevention plan under section 7 shall submit an annual progress report to the commissioner that may be drafted in a manner that does not disclose proprietary information. Progress reports are due on October 1 of each year. The first progress reports are due in 1992.

(b) At a minimum, each progress report must include:

(1) a summary of each objective established in the plan including the schedule for meeting the objective;

(2) a summary of progress made during the past year, if any, toward meeting each objective established in the plan including the quantity of each toxic pollutant eliminated or reduced;

(3) a statement of the methods through which elimination or reduction has been achieved;

(4) if necessary, an explanation of the reasons objectives were not achieved

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during the previous year, including identification of any technological, economic, or other impediments the facility faced in its efforts to achieve its objectives; and

(5) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting that a plan meeting the requirements of section 7 has been prepared and also attesting to the accuracy of the information in the progress report.

Subd. 2. REVIEW OF PROGRESS REPORTS. (a) The commissioner shall review all progress reports to determine if they meet the requirements of subdivision 1. If the commissioner determines that a progress report does not meet the requirements, the commissioner shall notify the facility in writing and shall identify specific deficiencies and specify a reasonable time period of not less than 90 days for the facility to modify the progress report.

(b) The commissioner shall be given access to a facility plan required under section 7 if the commissioner determines that the progress report for that facility does not meet the requirements of subdivision 1. Twenty-five or more persons living within ten miles of the facility may submit a petition to the commissioner that identifies specific deficiencies in the progress report and requests the commissioner to review the facility plan. Within 30 days after receipt of the petition, the commissioner shall respond in writing. If the commissioner agrees that the progress report does not meet requirements of subdivision 1, the commissioner shall be given access to the facility plan.

(c) After reviewing the plan and the progress report with any modifications submitted, the commissioner shall state in writing whether the progress report meets the requirements of subdivision 1. If the commissioner determines that a modified progress report still does not meet the requirements of subdivision 1, the commissioner shall schedule a public meeting. The meeting shall be held in the county where the facility is located. The meeting is not subject to the requirements of chapter 14.

(d) The facility shall be given the opportunity to amend the progress report within a period of not less than 30 days after the public meeting.

(e) If the commissioner determines that a modified progress report still does not meet the requirements of subdivision 1, action may be taken under section 115.071 to obtain compliance with sections 1 to 11.

Sec. 9. [115D.09] CONFIDENTIALITY.

Information and techniques developed under section 4, the reduction information and techniques under section 5, and the progress reports required under section 8 are public data under chapter 13. The plans required under section 7 are nonpublic data under chapter 13.

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Sec. 10. [115D.10] TOXIC POLLUTION PREVENTION EVALUATION REPORT.

The director, in cooperation with the commissioner and commission, shall report to the environment and natural resources committees of the legislature annually on progress being made in achieving the objectives of sections 1 to 11. The report must be submitted by December 15 of each year, beginning in 1992.

Sec. 11. [115D.12] POLLUTION PREVENTION FEES.

Subdivision 1. IMPOSITION. The pollution prevention fees in this section are imposed on persons and facilities under subdivision 2, paragraphs (a) and (b):

Subd. 2. FEES. (a) Persons required by United States Code, title 42, section 11023, to submit a toxic chemical release form to the commission shall pay a pollution prevention fee of \$150 for each toxic pollutant reported released plus a fee based on the total pounds of toxic pollutants reported as released from each facility. Facilities reporting less than 25,000 pounds annually of toxic pollutants released per facility shall be assessed a fee of \$500. Facilities reporting annual releases of toxic pollutants in excess of 25,000 pounds shall be assessed a graduated fee at the rate of two cents per pound of toxic pollutants reported, not to exceed a total of \$30,000 per facility.

(b) Persons who generate more than 1,000 kilograms of hazardous waste per month but who are not subject to the fee under paragraph (a) must pay a pollution prevention fee of \$500 per facility. Hazardous waste as used in this paragraph has the meaning given it in section 116.06, subdivision 13, and Minnesota Rules, chapter 7045.

(c) Fees required under this subdivision must be paid to the director by January 1 of each year. The fees shall be deposited in the state treasury and credited to the environmental fund.

Sec. 12. REPORTS TO THE LEGISLATURE.

Subdivision 1. REPORT ON BARRIERS TO POLLUTION PREVENTION. By January 1, 1991, the director shall prepare and submit a report to the environment and natural resources committees of the legislature analyzing the barriers to pollution prevention. At a minimum, the director shall report on regulatory, economic, educational, and institutional barriers and shall recommend strategies to overcome these barriers. Further, the report shall describe ways in which government may serve as a role model in pollution prevention.

Subd. 2. REPORT ON TOXIC POLLUTANTS USE REPORTING. By January 1, 1993, the director shall prepare and submit a report to the environment and natural resources committees of the legislature evaluating the utility of requiring companies to prepare toxic pollutant use reports and reduction plans.

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The report shall discuss, among other information, the potential uses of the data and the potential impact of such requirements on pollution prevention efforts. The report also shall discuss the need for a chemical accident prevention program to promote safety initiatives by industry. The report shall contain a recommendation as to whether to require toxic pollutant use reports and reduction plans.

Sec. 13. APPROPRIATIONS.

Subdivision 1. OFFICE OF WASTE MANAGEMENT. \$847,000 is appropriated from the environmental fund to the office of waste management to be available for the biennium ending June 30, 1991:

<u>(a) For pollution prevention assistance to eligible recipients</u>	<u>\$560,000</u>
<u>(b) For pollution prevention grants</u>	<u>\$150,000</u>
<u>(c) For reports to the legislature and administration of sections 1 to 12</u>	<u>\$137,000</u>

The approved complement of the office is increased by three positions.

Subd. 2. POLLUTION CONTROL AGENCY. \$45,000 is appropriated from the environmental fund to the pollution control agency to be available for the biennium ending June 30, 1991, for the purposes specified in sections 1 to 12.

The approved complement of the agency is increased by one position.

Subd. 3. DEPARTMENT OF PUBLIC SAFETY. \$48,000 is appropriated from the environmental fund to the department of public safety to be available for the biennium ending June 30, 1991, to ensure timely and accurate submittal of the toxic chemical release forms and annual progress reports in sections 1 to 12.

The approved complement of the department of public safety is increased by one position.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 13 are effective the day after final enactment.

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ARTICLE 2

COMPREHENSIVE CHLOROFLUOROCARBON REDUCTION
AND RECYCLING ACT OF 1990

Section 1. CITATION.

Sections 1 to 8 may be cited as the "comprehensive chlorofluorocarbon reduction and recycling act of 1990."

Sec. 2. PURPOSE.

It is the intent of the legislature to reduce the amount of CFCs used and emitted in Minnesota. Towards this goal, it is the legislature's intent that Minnesota industries use alternative chemicals when available and feasible. Where no alternative exists, CFCs should be recaptured and recycled whenever possible.

Sec. 3. Minnesota Statutes 1988, section 116.70, subdivision 1, is amended to read:

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to sections 116.71 to ~~116.73~~ 116.734.

Sec. 4. ~~[116.731]~~ REQUIREMENTS TO RECYCLE CFCs.

Subdivision 1. SALVAGE AUTOMOBILES. A person who processes automobiles for salvage must remove CFCs for recycling prior to disposal or sale of the materials containing CFCs. This subdivision does not apply to crushed automobiles or automobiles that have been processed in a manner that makes removal and recovery of CFCs impossible.

Subd. 2. REFRIGERATION EQUIPMENT. A person processing scrap refrigerators, central air conditioning units, or freezers must remove and recycle, destroy, or properly dispose of the CFCs.

Subd. 3. MOBILE AIR CONDITIONING EQUIPMENT. A person servicing or removing mobile air conditioning equipment must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

Subd. 4. SERVICING OF APPLIANCES. (a) A person servicing refrigerators, central air conditioning units, or freezers must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

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(2) recapture CFCs and recycle the CFCs to an allowed use.

(b) The recovered CFCs may be properly disposed of or destroyed.

Subd. 5. FOAM NOT REQUIRED TO BE RECYCLED. This section does not require recycling of rigid or flexible foam.

Subd. 6. RULES. The agency shall adopt rules for recycling CFCs and establish standards for CFC recycling equipment under this section.

Sec. 5. [116.732] REQUIREMENT TO RECYCLE FIRE EXTINGUISH-ER HALONS.

A person who recharges, services, or retires fire extinguishers must recapture and recycle halons.

Sec. 6. [116.733] MEDICAL DEVICE EXEMPTION.

Sections 1 to 5 do not apply to processes using CFCs or halons on medical devices, in sterilization processes in health care facilities, or by a person or facility in manufacturing or selling of medical devices.

Sec. 7. [116.734] UNIFORM CFC REGULATION.

It is the policy of this state to regulate and manage CFCs in a uniform manner throughout the state. Political subdivisions may not adopt, and are preempted from adopting or enforcing, requirements relating to CFCs that are different than state law.

Sec. 8. [325E.38] SALE OF CERTAIN CFC PRODUCTS PROHIBITED.

Subdivision 1. MOTOR VEHICLE COOLANTS. A person may not offer for sale or sell CFC coolants in containers weighing less than 15 pounds that are designed for or are suitable for use in motor vehicle air conditioners except to persons who possess CFC recycling equipment and who present proof of ownership of CFC recycling equipment at the time of purchase.

Subd. 2. SOLVENTS. A person may not offer for sale or sell solvents containing CFCs in containers weighing 15 pounds or less.

Subd. 3. PARTY STREAMERS. A person may not offer for sale or sell CFC propelled party streamers.

Subd. 4. NOISE HORNS. A person may not offer for sale or sell CFC noise horns.

Subd. 5. CFC DEFINITION. For purposes of this section, the term "CFC" has the definition given in section 116.70, subdivision 3.

Subd. 6. APPLICABILITY TO NEW CHEMICALS. For each new chemi-

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cal added to section 116.70, subdivision 3, after the effective date of this act, the application of this section to the new chemical is effective on the date specified for elimination of production of that chemical in the Montreal Treaty.

Sec. 9. EFFECTIVE DATE.

Section 4, subdivisions 1 and 2, are effective July 1, 1991. Section 4, subdivision 4, is effective July 1, 1992. Section 4, subdivision 3, and section 8, subdivisions 1 to 4, are effective January 1, 1993.

Presented to the governor April 26, 1990

Signed by the governor May 3, 1990, 6:00 p.m.

CHAPTER 561—S.F.No. 2527

An act relating to agriculture; establishing an agricultural liming material law; allowing agreements between the commissioner of agriculture and certain persons required to file reports under the corporate farming law; appropriating money; prescribing penalties; amending Minnesota Statutes 1988, section 500.24, subdivision 4; Minnesota Statutes 1989 Supplement, section 18D.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 18C.

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

Section 1. [18C.530] CITATION.

Sections 2 to 11 are known and may be cited as the "Minnesota agricultural liming materials law."

Sec. 2. [18C.531] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 2 to 11.

Subd. 2. AGRICULTURAL LIMING MATERIALS. "Agricultural liming materials" means materials whose calcium or magnesium compounds, or both, account for an ENP of 30 percent or more and includes burnt lime, hydrated lime, industrial by-product, limestone, and marl.

Subd. 3. BRAND. "Brand" means the term designating trademark, product name, or other specific designation under which individual agricultural liming material is offered for sale.

Subd. 4. BULK. "Bulk" means in nonpackaged form.

Subd. 5. BURNT LIME. "Burnt lime" means a material made from limestone that consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.

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