

educational opportunities for each state's citizens. The task force shall report its recommendations to the education committees of the Minnesota legislature by January 15, 1991. Minnesota Statutes, section 15.059, does not apply to the Minnesota task force members. The task force expires on June 30, 1991.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day after final enactment. Section 4 is effective the day after final enactment of a bill by the state of South Dakota providing for South Dakota members of the education task force.

Presented to the governor April 28, 1990

Signed by the governor May 3, 1990, 5:14 p.m.

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**CHAPTER 597—S.F.No. 2126**

*An act relating to health; providing regulations for bulk pesticide storage; amending provisions relating to pesticide registration fees and application fees; requiring permits for sources of irrigation water; requiring a permit for construction of a fertilizer distribution facility; requiring a responsible party to immediately take reasonable action necessary to abate an agricultural chemical incident; requiring certain administrative hearings on contested orders within 14 days; crediting certain agricultural penalties to the pesticide or fertilizer regulatory accounts; amending provisions relating to the registration surcharge and the agricultural chemical response and reimbursement fee; appropriating money from the general fund to be reimbursed with response and reimbursement fees; amending provisions relating to response and reimbursement eligibility; providing commissioner of agriculture authority under chapter 115B for agricultural chemical incidents; defining agricultural chemical; clarifying requirements for water well construction, repair, sealing, and ownership; amending requirements for fees relating to water wells, monitoring wells, variances, and certain licenses; clarifying provisions for at-grade monitoring wells; requiring the establishment of reduced isolation distances for facilities with safeguards; clarifying conditions to issue a limited well contractor's license; clarifying disclosure requirements for sale of property where wells are located; clarifying liability and responsibility for complying with certain well requirements; providing that the commissioner of natural resources have authority over permits for the underground storage of gas or liquid; imposing limits on the flush volume of new floor-mounted water closets; establishing requirements to limit the use of once-through water systems; limiting the issuance of permits for once-through systems; requiring investigation of financial assistance for conversion of once-through systems; clarifying fee requirements and the use of fees; requiring methods to measure water use; allowing a waiver of bond requirements for well or limited well contractors; continuing the legislative commission on water; continuing certain delegation agreements between the commissioner of health and a board of health; amending effective dates; amending appropriations; appropriating money; amending Minnesota Statutes 1988, sections 18B.14, subdivision 2; 18B.27, subdivision 3;*

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18B.28, subdivision 4; 103I.331, subdivision 4; 115B.02, subdivisions 3, 4, and by adding a subdivision; 326.37; Minnesota Statutes 1989 Supplement, sections 18B.26, subdivision 3; 18C.205, subdivision 2; 18C.305, subdivision 1; 18D.103, subdivision 1; 18D.321, subdivision 2; 18E.03, subdivisions 3, 4, 5, and by adding a subdivision; 18E.04, subdivision 1; 103B.3369, subdivision 5; 103I.005, subdivisions 2, 8, 9, 16, and by adding a subdivision; 103I.101, subdivisions 2, 5, and 6; 103I.111, subdivision 5, and by adding subdivisions; 103I.205, subdivisions 1, 2, 4, 5, 6, and 8; 103I.208, subdivision 2; 103I.235; 103I.301, subdivision 3; 103I.311, subdivision 3; 103I.325, subdivision 2; 103I.525, subdivisions 1, 5, and 6; 103I.531, subdivision 4; 103I.541, subdivision 1, and by adding subdivisions; 103I.681; 103I.685; 103I.691; 103I.705, subdivisions 2 and 3; 115B.20, subdivision 1; 116C.69, subdivision 3; Laws 1989, chapters 326, article 3, section 49; article 6, section 33, subdivision 2; article 8, section 10; and 335, article 1, section 23, subdivision 4; Laws 1990, chapter 391, article 7, sections 2, by adding a subdivision; and 27, subdivisions 5 and 6, and by adding a subdivision; and 29, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 18D and 103I; repealing Minnesota Statutes 1988, sections 115B.17, subdivision 8; and 325E.045, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 103I.005, subdivision 19; 103I.211; 103I.301, subdivision 5; 103I.321; 103I.325, subdivision 1; and 103I.533.

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

Section 1. Minnesota Statutes 1988, section 18B.14, subdivision 2, is amended to read:

Subd. 2. **BULK PESTICIDE STORAGE.** (a) A person storing pesticides in containers of a rated capacity of 500 gallons or more for more than ten consecutive days at a bulk pesticide storage facility must obtain a pesticide storage permit from the commissioner as required by rule.

(b) Applications must be on forms provided by the commissioner containing information established by rule. The initial application for a permit must be accompanied by a nonrefundable application fee of \$100 for each location where the pesticides are stored. An application for a facility that includes both fertilizers as regulated under chapter 18C and bulk pesticides as regulated under this chapter shall pay only one application fee of \$100.

(c) The commissioner shall by rule develop and implement a program to regulate bulk pesticides. The rules must include installation of secondary containment devices, storage site security, safeguards, notification of storage site locations, criteria for permit approval, a schedule for compliance, and other appropriate requirements necessary to minimize potential adverse effects on the environment. The rules must conform with existing rules of the pollution control agency.

(d) A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters a bulk pesticide storage facility. If an application is incomplete the commissioner must notify the applicant as soon as possible. The permit must be acted upon within 30 days after receiving a completed application.

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(e) An application to substantially alter a facility must be accompanied by a \$50 fee. An application for a facility that includes both fertilizers regulated under chapter 18C and bulk pesticides regulated under this chapter shall pay only one application fee of \$50.

(f) An additional application fee of \$250 must be paid by an applicant who begins construction of, or substantially alters, a bulk pesticide storage facility before a permit is issued by the commissioner. The fee under this paragraph may not be charged if the permit is not acted upon within 30 days after receiving a completed application.

Sec. 2. Minnesota Statutes 1989 Supplement, section 18B.26, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FEE.** (a) 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 calendar year 1990 and at one-fifth of one percent thereafter of annual gross sales within the state and annual gross sales of pesticides used in the state, with a minimum nonrefundable fee of \$150 plus an additional one-tenth of one percent for each pesticide for which the United States Environmental Protection Agency, Office of Water, has published a Health Advisory Summary by December 1 of the previous year. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the application fee in this paragraph if the registrant properly documents the sale location and distributors. A registrant paying more than the minimum fee shall pay the application fee in quarterly installments balance due by 30 days after the end of each calendar quarter March 1 based on the gross sales of the pesticide by the registrant for the preceding calendar quarter year. The fee for disinfectants and sanitizers is \$150. The minimum fee is due by December 31 preceding the year for which the application for registration is made. Of the amount collected after July 1, calendar year 1990, \$600,000 per year must be credited to the waste pesticide account under section 18B.065, subdivision 5, and the additional amount collected for pesticides with Health Advisory Summaries shall be credited to the agricultural project utilization account under section 116O.13 to be used for pesticide use reduction grants by the agricultural utilization research institute.

(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.

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(c) 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~~ by March 1 for the previous year's 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. 3. Minnesota Statutes 1988, section 18B.27, subdivision 3, is amended to read:

Subd. 3. **APPLICATION FEE.** An application fee for a special local need registration must be accompanied by a nonrefundable fee of ~~\$125~~ \$150.

Sec. 4. Minnesota Statutes 1988, section 18B.28, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FEE.** (a) An application for registration of an experimental use pesticide product must be accompanied by a nonrefundable application fee of ~~\$125~~ \$150.

(b) An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before an initial experimental use pesticide product registration was issued for the pesticide.

Sec. 5. Minnesota Statutes 1989 Supplement, section 18C.205, subdivision 2, is amended to read:

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 or other sources of irrigation water that are protected from contamination by the same devices as required by rule.

Sec. 6. Minnesota Statutes 1989 Supplement, section 18C.305, subdivision 1, is amended to read:

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~~ distribution, 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.

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Sec. 7. Minnesota Statutes 1989 Supplement, section 18D.103, subdivision 1, is amended to read:

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. The responsible party must immediately take all reasonable action necessary to minimize or abate the incident and to recover any agricultural chemicals involved in the incident with or without a directive from the commissioner.

Sec. 8. Minnesota Statutes 1989 Supplement, section 18D.321, subdivision 2, is amended to read:

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. For contested corrective action orders, the state office of administrative hearings shall conduct an administrative hearing not later than 14 days after notification that a corrective action order is contested.

Sec. 9. [18D.323] **CREDITING OF PENALTIES, FEES, AND COSTS.**

Except for money repaid to the agricultural chemical response and reimbursement account under section 18E.04, subdivision 6, penalties, cost reimbursements, fees, and other moneys collected under this chapter must be deposited into the state treasury and credited to the appropriate pesticide or fertilizer regulatory account.

Sec. 10. Minnesota Statutes 1989 Supplement, section 18E.03, subdivision 3, is amended to read:

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~~ an unencumbered 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 18E.04.

(b) The commissioner shall determine the response and reimbursement fee so that the total balance in the account does not exceed \$5,000,000.

(c) Money from the response and reimbursement fee shall be deposited in

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the treasury and credited to the agricultural chemical response and reimbursement account.

Sec. 11. Minnesota Statutes 1989 Supplement, section 18E.03, subdivision 4, is amended to read:

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~~ March 1, 1991.

(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 and sales of pesticides for use in the state during the ~~previous calendar quarter period~~ April 1, 1990, through December 31, 1990, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale location and the distributors.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under section 18C.425, 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 sections 18C.415 and 18C.425;

(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;

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(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.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

(g) Paragraphs (c) to (f) apply to sales, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.

Sec. 12. Minnesota Statutes 1989 Supplement, section 18E.03, subdivision 5, is amended to read:

Subd. 5. **FEE AFTER 1990.** (a) The response and reimbursement fee for calendar years after December 31, calendar year 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 and imposed annually as required 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 gross sales of the pesticide in the state and sales of the pesticide for use in the state during the previous calendar ~~quarter year~~, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant

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based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale locations and the distributors.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(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 sections 18C.415 and 18C.425;

(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.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

Sec. 13. Minnesota Statutes 1989 Supplement, section 18E.03, is amended by adding a subdivision to read:

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Subd. 7. APPROPRIATION AND REIMBURSEMENT. The amount of the response and reimbursement fee imposed under subdivisions 3 to 5 is appropriated from the general fund to the agricultural chemical response and reimbursement account to be reimbursed when the fee is collected.

Sec. 14. Minnesota Statutes 1989 Supplement, section 18E.04, subdivision 1, is amended to read:

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 the eligible person in taking corrective action as provided in subdivision 4, if the board determines:

(1) the eligible person takes all reasonable action necessary to minimize and abate an incident and the action is subsequently approved by the commissioner;

(2) the eligible person complies with any reasonable requests for corrective action issued to the eligible person by the commissioner;

(3) the eligible person complied with corrective action orders if issued to the eligible person by the commissioner; and

~~(2)~~ (4) the incident was reported as required in chapters 18B, 18C, and 18D.

Sec. 15. Minnesota Statutes 1989 Supplement, section 103B.3369, subdivision 5, is amended to read:

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~~ sections 110B.04 and 473.8785 that 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.

Sec. 16. Minnesota Statutes 1989 Supplement, section 103I.005, subdivision 2, is amended to read:

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

Sec. 17. Minnesota Statutes 1989 Supplement, section 103I.005, is amended by adding a subdivision to read:

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**Subd. 4a. DEWATERING WELL.** "Dewatering well" means a nonpotable well used to lower groundwater levels to allow for construction or use of underground space. A dewatering well does not include:

(1) a well or dewatering well 25 feet or less in depth for temporary dewatering during construction; or

(2) a well used to lower groundwater levels for control or removal of groundwater contamination.

Sec. 18. Minnesota Statutes 1989 Supplement, section 103I.005, subdivision 8, is amended to read:

**Subd. 8. ENVIRONMENTAL BORE HOLE.** "Environmental bore hole" means a hole or excavation in the ground that penetrates a confining layer or is greater than 25 feet in depth and 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.

Sec. 19. Minnesota Statutes 1989 Supplement, section 103I.005, subdivision 9, is amended to read:

**Subd. 9. EXPLORATORY BORING.** "Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, kaolin clay, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.

Sec. 20. Minnesota Statutes 1989 Supplement, section 103I.005, subdivision 16, is amended to read:

**Subd. 16. PERSON.** "Person" means an individual, firm, partnership, association, or corporation or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.

Sec. 21. Minnesota Statutes 1989 Supplement, section 103I.101, subdivision 2, is amended to read:

**Subd. 2. DUTIES.** The commissioner shall:

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

(2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing, and sealing

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unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering 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;

(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, and borings 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.

Sec. 22. Minnesota Statutes 1989 Supplement, section 103I.101, subdivision 5, is amended to read:

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, repairing, and sealing unconventional wells such as drive points or dug wells;

(iii) persons constructing, repairing, and sealing dewatering wells;

(iv) persons sealing wells; and

~~(iv)~~ (v) 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;

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- (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;
- (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.

Sec. 23. Minnesota Statutes 1989 Supplement, section 103I.101, subdivision 6, is amended to read:

Subd. 6. **FEES FOR VARIANCES.** The commissioner shall charge a non-refundable application fee of ~~\$150~~ \$100 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 chapter 4725, for wells and borings.~~

Sec. 24. Minnesota Statutes 1989 Supplement, section 103I.111, is amended by adding a subdivision to read:

Subd. 2a. FEES. A board of health under a delegation agreement with the commissioner may charge permit and notification fees in excess of the fees specified in section 103I.208 if the fees do not exceed the total direct and indirect costs to administer the delegated duties.

Sec. 25. Minnesota Statutes 1989 Supplement, section 103I.111, is amended by adding a subdivision to read:

Subd. 2b. ORDINANCE AUTHORITY. A political subdivision may adopt ordinances to enforce and administer powers and duties delegated under this section. The ordinances may not conflict with or be less restrictive than standards in state law or rule. Ordinances adopted by the governing body of a statutory or home rule charter city or town may not conflict with or be less restrictive than ordinances adopted by the county board.

Sec. 26. Minnesota Statutes 1989 Supplement, section 103I.111, subdivision 5, is amended to read:

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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 in a manner not inconsistent with this chapter and rules 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.

(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.

**Sec. 27. [103L.112] FEE EXEMPTIONS FOR STATE AND LOCAL GOVERNMENT.**

(a) The commissioner may not charge fees required under this chapter to a state agency or a local unit of government or to a subcontractor performing work for the state agency or local unit of government.

(b) "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.

Sec. 28. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 1, is amended to read:

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 103I.208. 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, the property owner's agent, or the well contractor 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 A person who is an individual that constructs a drive point well on property owned or leased by the individual for farming or agricultural purposes or as the individual's place of abode must notify the commissioner of the installation and location of the well. The ~~owner~~

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person 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.

Sec. 29. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 2, is amended to read:

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

- (1) endanger the public health and welfare or cause a need to protect the groundwater; or
- (2) require the monitoring well contractor, limited well contractor, or well contractor to begin constructing a well before obtaining a permit or notification.

Sec. 30. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 4, is amended to read:

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.

(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. A separate license is required for each of the five activities:

- (1) modify installing or repair repairing well casings or well screens or pitless units or pitless adaptors and well casings from the the pitless adaptor or pitless unit to the upper termination of the well casing;

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

(2) ~~construct~~ constructing, repairing, and sealing drive point wells or dug wells; ~~or~~

(3) ~~install~~ installing well pumps or pumping equipment;

(4) sealing wells; ~~or~~

(5) constructing, repairing, or sealing dewatering wells.

(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:

(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.

Sec. 31. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 5, is amended to read:

Subd. 5. **AT-GRADE MONITORING WELLS.** At-grade monitoring wells are authorized without variance and may be installed for the purpose of evaluating groundwater conditions or for use as a leak detection device. ~~The An~~ An at-grade ~~completion monitoring well~~ monitoring well must ~~comply be~~ be installed in accordance with the rules of the commissioner. The at-grade monitoring wells must be installed with an impermeable double locking cap approved by the commissioner and must be labeled monitoring wells.

Sec. 32. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 6, is amended to read:

Subd. 6. **DISTANCE REQUIREMENTS FOR SOURCES OF CONTAMINATION.** (a) 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.

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(b) The commissioner shall establish by rule reduced isolation distances for facilities which have safeguards in accordance with sections 18B.01, subdivision 26, and 18C.005, subdivision 29.

Sec. 33. Minnesota Statutes 1989 Supplement, section 103I.205, subdivision 8, is amended to read:

**Subd. 8. MONITORING WELL CONTRACT REQUIREMENT WELLS ON PROPERTY OF ANOTHER.** A person may not construct a monitoring well on the property of another until the owner of the property on which the well is to be located and the well owner sign a written contract agreement that describes the nature of the work to be performed, the estimated cost of the work, and provisions identifies which party will be responsible for obtaining maintenance permits and for sealing the monitoring well. If the property owner refuses to sign the agreement, the well owner may, in lieu of a written agreement, state in writing to the commissioner that the well owner will be responsible for obtaining maintenance permits and sealing the well. Nothing in this subdivision eliminates the responsibilities of the property owner under this chapter, or allows a person to construct a well on the property of another without consent or other legal authority.

Sec. 34. Minnesota Statutes 1989 Supplement, section 103I.208, subdivision 2, is amended to read:

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 section 103B.3363, subdivision 4, there is no fee;~~

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

~~(5)~~ (4) 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) ~~(5)~~ for a groundwater thermal exchange device, \$50;

~~(7)~~ (6) for a vertical heat exchanger, in addition to the permit fee for wells, \$50;

~~(8)~~ (7) for construction of the dewatering well, \$50 for each well except a

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dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for \$500; and

(9) (8) 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. 35. Minnesota Statutes 1989 Supplement, section 103I.235, is amended to read:

**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 by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description, and the quartile, section, township, range, and county, and a map drawn from available information showing the location of the wells each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information and the quartile, section, township, and range in which each well is located 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. A well certificate need not be provided if the closing occurs before November 1, 1990, or the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

If a deed is given pursuant to a contract for deed, the well certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer.

(c) If a the seller fails to provide a required well certificate, a the 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 statement required by this section or based on other available information.

(d) A county recorder or registrar of titles may not record a deed, or other instrument; or writing of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or contract for deed other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance either contains the statement "The Seller certifies that the Seller does not know of any wells on the described real proper-

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ty," or is accompanied by 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 note on each deed or other instrument of conveyance accompanied by a well certificate that the well certificate was received. The well certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. 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.

(f) Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

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 the well, is liable to the buyer for costs and reasonable attorney fees relating to the sealing of a the well- and reasonable attorney fees for collection of costs from the seller, if the action must be commenced by the buyer within six years after the date the buyer purchased closed the purchase of the real property where the well is located.

Sec. 36. Minnesota Statutes 1989 Supplement, section 103I.301, subdivision 3, is amended to read:

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, or limited dewatering well contractor shall seal the dewatering well.

Sec. 37. Minnesota Statutes 1989 Supplement, section 103I.311, subdivision 3, is amended to read:

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 on the property, 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

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

part of the contract. The deed or other instrument of conveyance evidencing the sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with. Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Sec. 38. Minnesota Statutes 1989 Supplement, section 103I.325, subdivision 2, is amended to read:

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 by a licensed contractor in compliance with this chapter if a report of sealing has been filed with the commissioner of health by the contractor who performed the work, and if the owner has not disturbed or disrupted the sealed well.

Sec. 39. Minnesota Statutes 1988, section 103I.331, subdivision 4, is amended to read:

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; and

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

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

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

Sec. 40. Minnesota Statutes 1989 Supplement, section 103I.525, subdivision 1, is amended to read:

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.

(c) A person may apply as an individual if the person:

(1) is not the licensed well contractor representing a firm, partnership, association, corporation, or other entity including the United States government, any interstate body, the state and agency, department or political subdivision of the state; and

(2) meets the well contractor license requirements under this chapter and Minnesota Rules, chapter 4725.

Sec. 41. Minnesota Statutes 1989 Supplement, section 103I.525, subdivision 5, is amended to read:

Subd. 5. **BOND.** (a) As a condition of being issued a well contractor's license, the applicant, except a person applying for an individual well contractor's license, 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.

Sec. 42. Minnesota Statutes 1989 Supplement, section 103I.525, subdivision 6, is amended to read:

Subd. 6. **LICENSE FEE.** The fee for a well contractor's license is \$250, except the fee for an individual well contractor's license is \$50.

Sec. 43. Minnesota Statutes 1989 Supplement, section 103I.531, subdivision 4, is amended to read:

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. If the other conditions of this section are satisfied, the commissioner may not withhold issuance of a dewatering limited

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

license based on the applicant's lack of prior experience under a licensed well contractor.

Sec. 44. Minnesota Statutes 1989 Supplement, section 103I.541, subdivision 1, is amended to read:

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

Sec. 45. Minnesota Statutes 1989 Supplement, section 103I.541, is amended by adding a subdivision to read:

Subd. 2a. APPLICATION. (a) An individual must submit an application and application fee to the commissioner to apply for a monitoring well contractor registration.

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

Sec. 46. Minnesota Statutes 1989 Supplement, section 103I.541, is amended by adding a subdivision to read:

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

Sec. 47. Minnesota Statutes 1989 Supplement, section 103I.681, is amended to read:

**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 commissioner~~ of natural resources ~~and health~~.

(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 commissioner~~ of ~~health and~~ natural resources.

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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.

(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.

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.

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

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.

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.

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

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.

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.

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.

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 ~~strikeout~~.

(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.

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.

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.

Sec. 48. Minnesota Statutes 1989 Supplement, section 103I.685, is amended to read:

#### **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~~ commissioner may impose.

Sec. 49. Minnesota Statutes 1989 Supplement, section 103I.691, is amended to read:

#### **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.

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Sec. 50. Minnesota Statutes 1989 Supplement, section 103I.705, subdivision 2, is amended to read:

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 rules adopted under this chapter~~, shall be assessed an administrative penalty of \$500.

Sec. 51. Minnesota Statutes 1989 Supplement, section 103I.705, subdivision 3, is amended to read:

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 adopted under this chapter~~ 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.

Sec. 52. Minnesota Statutes 1988, section 115B.02, subdivision 3, is amended to read:

Subd. 3. **AGENCY.** "Agency" means the commissioner of agriculture for actions, duties, or authorities relating to agricultural chemicals, or for other substances, the pollution control agency.

Sec. 53. Minnesota Statutes 1988, section 115B.02, is amended by adding a subdivision to read:

Subd. 3a. AGRICULTURAL CHEMICAL. "Agricultural chemical" has the meaning given in section 18D.01, subdivision 3.

Sec. 54. Minnesota Statutes 1988, section 115B.02, subdivision 4, is amended to read:

Subd. 4. **COMMISSIONER.** "Commissioner" means the commissioner of agriculture for actions, duties, or authorities related to agricultural chemicals or the commissioner of the pollution control agency for other substances.

Sec. 55. Minnesota Statutes 1989 Supplement, section 115B.20, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** (a) The environmental response, compensation, and compliance account is in the environmental fund in the state treasury and may be spent only for the purposes provided in subdivision 2.

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

(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) and (11) to (13). The commissioner of finance shall ~~allocate~~ transfer money from the response account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4) and (11) to (13).

(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.

(d) Amounts appropriated to the commissioner of finance under this subdivision shall not be included in the department of finance budget but shall be included in the pollution control agency and department of agriculture budgets.

Sec. 56. Minnesota Statutes 1989 Supplement, section 116C.69, subdivision 3, is amended to read:

Subd. 3. **FUNDING; ASSESSMENT.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Until June 30, 1992, the assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, reprinting informational booklets on acid rain, and costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The director of the pollution control agency must prepare a work plan and budget and submit them annually by June 30 to the pollution control agency board. The agency board must take public testimony on the budget and work plan. After the agency board approves the work plan and budget they must be submitted annually to the legislative water commission ~~on waste management~~ for review and recommendation before an assessment is levied. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of

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said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, for reprinting informational booklets on acid rain, and for costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Sec. 57. Minnesota Statutes 1988, section 326.37, is amended to read:

**326.37 PLUMBERS; SUPERVISION BY STATE COMMISSIONER OF HEALTH; RULES; VIOLATION; PENALTY.**

Subdivision 1. The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located. Violation of the rules shall be a misdemeanor.

The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

Subd. 2. STANDARDS FOR CAPACITY. By January 1, 1993, all new floor-mounted water closets in areas under jurisdiction of the state plumbing code may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards of the commissioner and the American National Standards Institute.

Sec. 58. Laws 1989, chapter 326, article 3, section 49, is amended to read:

**Sec. 49. EFFECTIVE DATE.**

Section 9 ~~is~~, subdivisions 1; 2; 3; 4, paragraphs (a), (d), and (e); 5; 6; 7; 8; and 9 are 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 9, subdivision 4, paragraphs (b) and (c), are effective July 1, 1990.

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

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~~Section~~, Sections 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.

Sec. 59. Laws 1989, chapter 326, article 6, section 33, subdivision 2, is amended to read:

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~~ August 1, 1990. The commissioner shall report to the environmental quality board by ~~July~~ October 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. 60. Laws 1989, chapter 326, article 8, section 10, is amended to read:

Sec. 10. **EFFECTIVE DATE.**

~~Sections Section 3; 4; and 5 are is effective July 1, 1990, and applies to pesticide sales on or after April 1, 1990, and to sales other than pesticides, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.~~

Section 4 is effective July 1, 1989, and applies to costs of a corrective action as defined by section 18D.01, subdivision 4, incurred by eligible persons after that date.

Section 5 is effective July 1, 1990.

Sec. 61. Laws 1989, chapter 335, article 1, section 23, subdivision 4, is amended to read:

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

## Subd. 4. Groundwater and Solid Waste

## Pollution Control

\$ 7,813,000

\$ 8,313,000

## Summary by Fund

General	\$ 2,553,000	\$ 3,053,000
Environmental Response	\$ 2,890,000	\$ 2,890,000
Metro Landfill Abatement	\$ 1,700,000	\$ 1,700,000
Metro Landfill Contingency	\$ 670,000	\$ 670,000

Of the amount appropriated from the environmental response fund, \$55,000 the first year and \$55,000 the second year is appropriated to the commissioner of agriculture for two positions to administer agricultural chemical superfund site activities. The appropriation the first year does not cancel and is available for the second year.

All money in the environmental response, compensation, and compliance fund not otherwise appropriated, is appropriated to the commissioner of finance for transfer to the pollution control agency for the purposes described in the environmental response and liability act, Minnesota Statutes, section 115B.20, subdivision 2, paragraphs (a), (b), (c), and (d) and the commissioner of agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (4), (11), (12), and (13). This appropriation is available until June 30, 1991.

All money in the metropolitan landfill abatement fund not otherwise appropriated is appropriated to the pollution control agency for payment to the metropolitan council and may be used by the

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council for the purposes of Minnesota Statutes, section 473.844. The council may not spend the money until the legislative commission on waste management has made its recommendations on the budget and work program submitted by the council.

\$1,000,000 the first year and \$1,500,000 the second year are appropriated from the general fund for transfer to the environmental response, compensation, and compliance fund.

Any unencumbered balance from the metropolitan landfill contingency fund remaining in fiscal year 1990 does not cancel but is available for fiscal year 1991.

Sec. 62. Laws 1990, chapter 391, article 7, section 2, is amended by adding a subdivision to read:

Subd. 13a. ONCE-THROUGH SYSTEM. "Once-through system" means a space heating, ventilating, air conditioning (HVAC), or refrigeration system used for any type of temperature or humidity control application, utilizing groundwater, that circulates through the system and is then discharged without recirculating the majority of the water in the system components or reusing it for another purpose.

Sec. 63. Laws 1990, chapter 391, article 7, section 27, is amended by adding a subdivision to read:

Subd. 4a. MT. SIMON-HINCKLEY AQUIFER. (a) The commissioner may not issue new water use permits that will appropriate water from the Mt. Simon-Hinckley aquifer unless the appropriation is for potable water use, there are no feasible or practical alternatives to this source, and a water conservation plan is incorporated with the permit.

(b) The commissioner shall terminate all permits authorizing appropriation and use of water from the Mt. Simon-Hinckley aquifer for once-through systems in the seven-county metropolitan area by December 31, 1992.

Sec. 64. Laws 1990, chapter 391, article 7, section 27, subdivision 5, is amended to read:

Subd. 5. CERTAIN COOLING SYSTEM PERMITS PROHIBITED PROHIBITION ON ONCE-THROUGH WATER USE PERMITS. (a) The commissioner may not, after December 31, 1990, issue a water use permit to increase

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the volume of appropriation from a groundwater source for a once-through cooling system using in excess of 5,000,000 gallons annually.

(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.~~ Once-through system water use permits using in excess of 5,000,000 gallons annually, must be terminated by the commissioner by the end of their design life but not later than December 31, 2010. Existing once-through systems are required to convert to water efficient alternatives within the design life of existing equipment. The commissioner shall, by August 1, 1990, submit to the legislative water commission for review the approach by which the commissioner will achieve appropriate conversion of the systems after considering the age of the system, the condition of the system, recent investments in the system, and feasibility and costs of alternatives available to replace usage of a once-through system.

Sec. 65. Laws 1990, chapter 391, article 7, section 27, subdivision 6, is amended to read:

Subd. 6. **WATER USE PERMIT PROCESSING FEE.** (a) Except as described in paragraph (b), a water use permit 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 cents per 1,000 gallons for the first 50,000,000 gallons per year; and

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

(b) ~~For once-through cooling systems as defined in subdivision 5,~~ 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 based on the amount of water permitted appropriated during the year and in no case may the fee be less than \$25. The commissioner shall notify all permittees of the fee changes authorized by this law by July 1, 1990. The commissioner is authorized to refund 1989 water use report processing fees under this subdivision.

(d) For once-through systems fees payable after July 1, 1993, at least 50

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percent of the fee deposited in the general fund shall be used for grants, loans, or other financial assistance as appropriated by the legislature to assist in financing retrofitting of permitted once-through systems until December 31, 1999. The commissioner shall adopt rules for determining eligibility and criteria for the issuance of grants, loans, or other financial assistance for retrofitting according to chapter 14, by July 1, 1993.

(d) (e) Failure to pay the fee is sufficient cause for revoking a permit. A fee may not be imposed on any state agency, as defined in section 16B.01, or a federal agency that holds a water appropriation permit.

Sec. 66. Laws 1990, chapter 391, article 7, section 29, subdivision 2, is amended to read:

Subd. 2. **MEASURING EQUIPMENT REQUIRED.** An installation for appropriating or using water must be equipped with a ~~device or use a method~~ flow meter to measure the quantity of water appropriated with reasonable accuracy within the degree of accuracy required by rule. ~~The commissioner's determination of the method commissioner can determine other methods to be used for measuring water quantity must be based on the quantity of water appropriated or used, the source of water, the method of appropriating or using water, and any other facts supplied to the commissioner.~~

#### Sec. 67. BOND WAIVER.

Until December 31, 1991, the commissioner may waive the bond requirement for licensure under section 103I.525, subdivision 5, or 103I.531, subdivision 5, if the commissioner determines that a well contractor or limited well contractor has made a good faith effort to obtain a bond from more than one company, and the bond cannot be obtained because of insufficient net worth or inadequate liquid assets as determined by the bond company, and the well contractor or limited well contractor complies with all other requirements for licensure under the provisions of this chapter.

#### Sec. 68. CONTINUANCE OF WATER COMMISSION.

Notwithstanding any other law passed during the 1990 legislative session, the legislative commission on water is not terminated and shall continue until June 30, 1994, and the appropriation in Laws 1989, chapter 326, article 10, section 1, subdivision 5, does not cancel and is appropriated from the general fund to be available until June 30, 1991.

#### Sec. 69. INSTRUCTION TO REVISOR.

In the 1990 and subsequent editions of Minnesota Statutes the revisor shall:

(1) change the terms "pollution control agency" and "commissioner of the pollution control agency" to "agency" and "commissioner" respectively in sections 115B.17 and 115B.18; and

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(2) change the terms "commissioner" and "agency" to "commissioner of the pollution control agency" and "pollution control agency" respectively in section 115B.17, subdivision 13.

**Sec. 70. COMMISSION INVESTIGATION.**

The legislative water commission shall investigate the needs and feasibility of allowing state bonding, grants, loans, or other financial assistance for conversion of once-through systems.

**Sec. 71. DELEGATION AGREEMENTS.**

Notwithstanding the provisions of Minnesota Statutes, chapter 103I, a delegation agreement between the commissioner of health and a board of health executed before July 1, 1989, shall remain in full force and effect until December 31, 1991.

**Sec. 72. [18D.1051] RESPONSE TO AGRICULTURAL CHEMICAL INCIDENTS.**

The commissioner of agriculture may take corrective action under Minnesota Statutes, chapter 18D, or response and remedial action under Minnesota Statutes, chapter 115B, or both, as provided under those chapters, in responding to an agricultural chemical incident, release, or threatened release.

**Sec. 73. REPEALER.**

Minnesota Statutes 1988, sections 115B.17, subdivision 8; and 325E.045, subdivisions 3 and 4; Minnesota Statutes 1989 Supplement, sections 103I.005, subdivision 19; 103I.211; 103I.301, subdivision 5; 103I.321; 103I.325, subdivision 1; and 103I.533, are repealed.

**Sec. 74. APPROPRIATION; AGRICULTURE LEGAL COSTS.**

\$75,000 is appropriated from the environmental account to the commissioner of agriculture to pay for legal costs relating to responses to agricultural incidents.

**Sec. 75. EFFECTIVE DATE.**

Sections 1 to 12 and 14 are effective July 1, 1990, except the additional one-tenth of one percent under Minnesota Statutes, section 18B.26, subdivision 3, paragraph (a), for each pesticide for which a health advisory summary has been published, is not effective until January 1, 1992, to be collected for calendar year 1992 and years thereafter. Section 13 is effective July 1, 1991. Sections 15 to 55 and 59 to 71 and 73 are effective the day following final enactment. Section 58 is effective the day following final enactment, retroactive to July 1, 1989.

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Section 17 is effective the day following final enactment except that dewatering wells may be constructed and operate down to 45 feet without permits or permit fees required by Minnesota Statutes, chapter 103I, until June 30, 1992.

Presented to the governor April 28, 1990

Signed by the governor May 3, 1990, 5:45 p.m.

#### CHAPTER 598—S.F.No. 2317

*An act relating to utilities; providing for the assessment of expenses for adjudicating service area disputes to municipal electric utilities; providing for civil penalties for violations of chapter 237; reestablishing the position of program administrator of the telecommunications access for communication-impaired persons board; extending the electric utility service area task force until 1992; requiring a study; appropriating money; amending Minnesota Statutes 1988, sections 216B.62, subdivision 5; 237.51, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 237.*

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

Section 1. Minnesota Statutes 1988, section 216B.62, subdivision 5, is amended to read:

Subd. 5. The commission and department shall be authorized to charge cooperative electric associations and municipal electric utilities their proportionate share of the expenses incurred in the adjudication of service area disputes and all of the costs incurred in the adjudication of complaints over service standards ~~and~~ practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section ~~216B.02~~ 216B.026, subdivision 4, shall also be subject to this section.

#### Sec. 2. [237.461] ENFORCEMENT.

Subdivision 1. ACTIONS. This chapter and rules and orders of the commission adopted under this chapter may be enforced by any one or combination of: criminal prosecution, action to recover civil penalties, injunction, action to compel performance, and other appropriate action.

Subd. 2. CIVIL PENALTY. A person who knowingly and intentionally violates a provision of this chapter or rule or order of the commission adopted under this chapter shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$1,000 for each day of each violation. The civil penalties provided for in this section may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this section must be paid into the state treasury.

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