

## CHAPTER 18A

### PESTICIDE CONTROL

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**18A.21 DEFINITIONS.** Subdivision 1. For the purpose of administering sections 18A.21 to 18A.45, the words and terms defined in this section have the meanings given them.

Subd. 2. "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate any pests, or which acts as a plant regulator, defoliant, or desiccant.

Subd. 3. "Administrator" means the administrator of the United States environmental protection agency.

Subd. 4. "Adulterated" means any pesticide the strength or purity of which falls below the standard of quality as expressed on the labeling under which it is sold, any pesticide for which any substance has been substituted wholly or in part, or any pesticide from which any valuable constituent has been wholly or in part abstracted.

Subd. 5. "Approved agency" means an agency of a county, municipality or other political subdivision which has inspection personnel capable of carrying out the provisions of sections 18A.21 to 18A.45 and which has signed an agreement pursuant to section 471.59.

Subd. 6. "Beneficial insects" means those insects which during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

Subd. 7. "Certified applicator" means an individual, including persons defined as commercial applicator, noncommercial applicator, private applicator, and structural pest control applicator, certified under sections 18A.21 to 18A.45 to use or supervise the use of any restricted use pesticide.

Subd. 8. "Commercial applicator" means a certified applicator other than a private applicator or noncommercial applicator who uses or supervises the use of any pesticide for any purpose or on any land.

Subd. 9. "Commissioner" means the commissioner of agriculture or his agent.

Subd. 10. "Device" includes any instrument, contrivance, or equipment other than a firearm, used for the application of pesticides when sold separately therefrom,

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intended for trapping, destroying or repelling pests.

Subd. 11. "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive and deliver, and offer to deliver pesticides in this state.

Subd. 12. "Environment" includes water, air, land, plants, man, and animals and their inter-relationships.

Subd. 13. "EPA" means the United States environmental protection agency.

Subd. 14. "FIFRA" means the federal insecticide, fungicide, rodenticide act, as amended.

Subd. 15. "Imminent hazard" means the continued use of a pesticide, during the time required for cancellation proceedings, which will likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the United States secretary of the interior under P.L. 91-135.

Subd. 16. "Ingredient statement" means a statement which contains the name and percentage of each active ingredient, the total percentage of all inert ingredients in the pesticide and, if the pesticide contains arsenic in any form, the percentages of total and water soluble arsenic each calculated as elemental arsenic.

Subd. 17. "Label" means the written, printed or graphic matter on, or attached to, the pesticide or device or any of their containers or wrappers.

Subd. 18. "Labeling" means all labels and other written, printed, or graphic matter:

(a) upon any pesticide or device or any of their containers or wrappers;

(b) accompanying the pesticide or device;

(c) to which reference is made on the label or literature accompanying the pesticide or device; or

(d) which relates or refers to the pesticide or device for the purpose of inducing the sale thereof.

Current official publications of the EPA, United States department of agriculture, United States department of interior, United States department of health, education and welfare, state agricultural experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides are not labeling.

Subd. 19. "Land" means all land and water areas including air space and all plants, animals, structures, buildings, contrivances and machinery whether fixed or mobile, including anything used for transportation.

Subd. 20. "Licensed pesticide dealer" means any pesticide dealer licensed by the commissioner who sells to the ultimate consumer or any person licensed by the commissioner purchasing from an unlicensed source for his own use any restricted use pesticide.

Subd. 21. "Misbranded" applies to any pesticide or device that is an imitation of or is offered for sale under the name of another pesticide or a pesticide the labeling of which does not comply with the labeling requirements of sections 18A.21 to 18A.45 or rules promulgated thereunder, or the FIFRA and regulations promulgated thereunder.

Subd. 22. "Noncommercial applicator" means a person, including government officials, other than a commercial applicator, structural pest control applicator or private applicator who uses or supervises the use of restricted use pesticides on lands.

Subd. 23. "Person" means any individual, firm, corporation, partnership, association, trust, joint stock company or unincorporated organizations.

Subd. 24. "Pest" means any insect, rodent, nematode, fungus, weed, terrestrial or aquatic plant, animal life, virus, bacteria, or other organism which the commissioner by rule declares to be a pest except virus, bacteria, or other micro-organism on or in living man or other living animals.

Subd. 25. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Subd. 26. "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or rate

of maturation of a plant, or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

Subd. 27. "Private applicator" means a person who uses or supervises the use of any restricted use pesticide for the purpose of producing any agricultural commodity on land owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the land of another person.

Subd. 28. "Protect the environment" means to protect against any unreasonable adverse effects on the environment other than on pests.

Subd. 29. "Registrant" means a person who has registered any pesticide under sections 18A.21 to 18A.45.

Subd. 30. "Restricted use pesticide" means any pesticide formulation designated under FIFRA or by the commissioner under sections 18A.21 to 18A.45 which when used in accordance with the directions for use and for the uses for which it is registered requires additional restrictions as to the rates, areas, times and conditions of use to protect the environment.

Subd. 31. "Spraying or dusting operations for hire" means the application for compensation of pesticides or plant growth regulators to land in any manner to regulate plant growth or to control or eradicate pests.

Subd. 32. "Structural pest" means pests in, on, under, or within six feet of any structure.

Subd. 33. "Structural pest control" means to control any pest through the use of any device, procedure, or application of pesticide in any house or in other structures including trucks, boxcars, ships, aircraft, docks, warehouses, and in fumigation vaults, and all business activity related to use of the device, procedure, or application of pesticide.

Subd. 34. "Structural pest control applicator" means any person engaged in structural pest control work for hire on the lands of another.

Subd. 35. "Under the direct supervision of a certified applicator" means, unless otherwise prescribed by its labeling, a pesticide applied by a person acting under the instruction and control of a certified applicator who is available even though such certified applicator is not physically present at the time and place the pesticide is applied.

Subd. 36. "Unreasonable adverse effects on the environment" means any unreasonable risk to the environment, considering the economic, social and environmental costs and benefits of the use of any pesticide.

Subd. 37. "Wildlife" means all living things that are neither human, domesticated, nor pests.

[ 1976 c 53 s 1 ]

**18A.22 REGISTRATION, SALES, FEE.** Subdivision 1. Every pesticide offered for sale, sold or distributed in this state shall be registered with the commissioner. Registration shall be renewed annually prior to January 1. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of sections 18A.21 to 18A.45.

Subd. 2. The applicant for registration shall file with the commissioner a statement which shall include:

- (a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;
- (b) The name of the pesticide;
- (c) Other necessary information required by the registration form;
- (d) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA.

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Subd. 3. The commissioner may require the submission of the complete formula of any pesticide including the active and inert ingredients.

Subd. 4. The commissioner may require the submission of other relevant information.

Subd. 5. Each application for registration and renewal shall be accompanied by a registration fee of \$10 for each pesticide registered. All such registrations shall expire on December 31 of any one year, unless cancelled.

Subd. 6. Any registration in effect on December 31 for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until such time as the commissioner notifies the applicant that the registration has been renewed or until the registration is denied or cancelled.

Subd. 7. If the renewal of a pesticide registration is filed after December 31, or an original application is filed after the first month the pesticide is first manufactured or sold within this state, an additional fee of \$5 shall be paid by the applicant before the registration for that pesticide may be issued or renewed.

Subd. 8. The commissioner shall not make lack of essentiality a criterion for denying registration of any pesticide.

[ 1976 c 53 s 2 ]

**18A.23 SPECIAL LOCAL NEEDS.** If the state is certified by the administrator to register pesticides to meet special local needs, the applicant shall supply the information required by section 18A.22 and the commissioner shall, subject to the terms and conditions of certification, register such pesticide if he determines that:

(a) Its composition is such as to warrant the proposed claims for it;

(b) Its label and other material required to be submitted comply with the requirements of sections 18A.21 to 18A.25;

(c) It will perform its intended function without unreasonable adverse effect on the environment;

(d) When used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment;

(e) The proposed classification for general use or restricted use, or both, is in conformity with FIFRA; and

(f) A special local need exists.

The commissioner may require a full description of tests and test results upon which claims are based for any pesticide not registered pursuant to section 18A.35 of FIFRA, or for any pesticide on which restrictions are being considered.

The commissioner may require other relevant information. The applicant may request confidentiality of information submitted pursuant to section 18A.35.

[ 1976 c 53 s 3 ]

**18A.24 EXPERIMENTAL USE PERMITS.** If the state is authorized by the administrator to issue experimental use permits, the commissioner may:

(a) Issue an experimental use permit if he determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under section 18A.22. An application for an experimental use permit may be filed at any time;

(b) Refuse to issue an experimental use permit if he determines that issuance of such permit is not warranted or that the use to be made of the pesticide under the proposed terms and conditions may cause unreasonable adverse effects on the environment;

(c) Prescribe terms, conditions, and period of time for the experimental use permit; and

(d) Revoke or modify an experimental use permit at any time if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

[ 1976 c 53 s 4 ]

**18A.25 CERTIFICATION REQUIREMENTS; PROHIBITION.** No person shall use or supervise the use of any restricted use pesticide without first complying with the certification requirements of sections 18A.21 to 18A.45, and with any other conditions determined by the commissioner to be necessary to prevent unreasonable adverse effects on the environment. A person who is not a certified applicator may use a restricted use pesticide only under the direct supervision of a certified applicator.

[ 1976 c 53 s 5 ]

**18A.26 LICENSE, REGISTRATION, DEALER, APPLICATOR, FEE.** Subdivision

1. **Restricted use pesticide dealer license.** (a) Any person offering for sale or having in his possession with intent to distribute to the ultimate user a restricted use pesticide and any private applicator purchasing from an unlicensed source for his own use any restricted use pesticide shall obtain a license from the commissioner. Application for a restricted use pesticide dealer license shall be made upon the forms and in the manner, which may include an examination, as the commissioner requires to determine if the applicant is qualified to sell restricted use pesticides.

(b) Application for a license requires payment of a fee of \$35. Licenses shall be renewed annually prior to January 1, upon receipt of a \$35 fee and the completed application form.

(c) If an application for renewal of a restricted use pesticide dealer license is not filed prior to January 1 of any one year, an additional fee of \$10 shall be paid by the applicant before the renewal license may be issued.

(d) The dealer license shall not be transferable to another person or to another location.

(e) Each licensed restricted use pesticide dealer shall be responsible for the acts of each person employed by him in the solicitation and sale of restricted use pesticides.

(f) Provisions of this subdivision shall not apply to:

(1) A licensed commercial applicator, noncommercial applicator or structural pest control applicator who sells or uses pesticides only as an integral part of his pesticide application service;

(2) A federal, state, county, or municipal agency which provides pesticides only for its own programs; and

(3) A duly licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in man or other animal in his practice.

Subd. 2. **Commercial applicator license.** (a) No commercial applicator shall use or supervise the use of any pesticide without a commercial applicator's license issued by the commissioner. Application for the license shall be made upon forms and in such manner, which may include an examination, as the commissioner may require. An aerial applicator shall secure an endorsement to his license showing that he has been licensed for commercial spraying or dusting operations, or both, in accordance with chapter 360, and that he has passed an examination prepared by the department of transportation and administered by the department of agriculture, testing whether he is knowledgeable in the aerial application of pesticides. A person intending to apply pesticides in any public waters shall secure an endorsement to his license showing that he has passed an examination prepared by the department of natural resources and administered by the department of agriculture, testing whether he is knowledgeable in the application of pesticides in water.

(b) The commissioner may renew any applicator's license, subject to reexamination or other requirements imposed by the commissioner to ensure that the applicator understands changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(c) Each application for a license shall require payment of an annual fee of \$10 and an identification card fee of \$7.50 for the applicant and \$7.50 for each additional identification card desired.

(d) If the renewal application is not filed prior to March 1 in any year, an additional fee of \$5 shall be paid by the applicant before the renewal license may be issued.

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(e) The license issued shall not be transferable to another person.

(f) Every licensee or his designated operator shall have an identification card when applying pesticides for hire and shall display it upon demand of an authorized representative of the commissioner or a law enforcement officer. The identification card shall contain such information as the commissioner may by rule require.

(g) A person required to be licensed under this subdivision who carries on spraying or dusting operations for hire or who employs or engages an applicator to carry on spraying or dusting operations for hire, shall be responsible for proper application of the material or device. He shall use materials, dosages, formulas, devices and methods of application acceptable to the commissioner based upon registered approved uses of the material or device within limits prescribed by state and federal laws and regulations. He shall not be held liable for the actions of a chemical when applied in accordance with the recommendation of the manufacturer or the commissioner.

**Subd. 3. Structural pest control applicator license, registration.** (a) No person shall engage in structural pest control applications for hire unless registered or licensed by the commissioner. Before any person shall engage in structural pest control application he shall apply on forms supplied by the commissioner for a registration or license to engage in such activities. The commissioner shall determine from the application and the statements contained therein if such applicant is qualified to be registered or to receive a license. The commissioner shall require the applicant to pass a written or an oral examination, or both, and may also require a practical demonstration regarding structural pest control. The examination procedure, including all the phases and contents of the examination, shall be established by the commissioner.

(b) A registration or license is effective until January 1 next following the date of its issuance, and may be renewed annually on or before that date. Registrations or licenses are not transferable to any other person.

(c) An annual fee of \$15 must accompany an application for registration or renewal where the applicant is licensed by a political subdivision or municipality to engage in structural pest control or \$75 if the applicant is not so licensed. Employees of a person who is registered or licensed under this subdivision shall pay a fee of \$10 for an initial license or registration and a fee of \$6 for each renewal thereof. The commissioner may establish other requirements for renewal as are necessary to assure competence of registrants or licensees.

(d) In case a delinquency in the payment of the license or registration renewal fee extends beyond three months the licensee or registrant will be required to obtain a new license or registration subject to all the requirements, procedures and fees required for an initial license or registration.

(e) The commissioner shall establish categories of master, journeyman, and apprentice in structural pest control applications. No person shall engage in structural pest control applications as a sole proprietorship, company, partnership, or corporation unless he is licensed or registered as a master in structural pest control applications or unless he employs a person so licensed or registered.

(f) The commissioner shall notify each licensee or registrant by mail that his fee is due and payable and if not received before the expiration date of the registration or license 50 percent will be added to the required annual renewal fee or fees.

**Subd. 4. Noncommercial applicator.** (a) No noncommercial applicator may use a restricted use pesticide or supervise the use of a restricted use pesticide without having a valid noncommercial applicator license issued by the commissioner for use categories or subcategories for which the pesticide application is made.

(b) License applications shall be made upon forms and in the manner, which may include an examination, as the commissioner may prescribe to determine if the applicant is qualified.

(c) The commissioner may renew a license subject to re-examination or other requirements designed to ensure that the applicator continues to understand changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(d) Each application for a license shall require payment of an annual fee of \$10 and an identification card fee of \$7.50 for the applicant and \$7.50 for each additional identification card desired. Governmental agencies shall be exempt from the fee. The license shall be renewed annually prior to January upon payment of applicable fees

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and compliance with any other requirement.

(e) If an application for renewal of license is not filed prior to March 1, in any year, an additional fee of \$5 shall be paid by the applicant before the renewal license may be issued.

[ 1976 c 53 s 6; 1976 c 166 s 7 ]

**18A.27 CLASSIFICATION OF LICENSES; STANDARDS.** The commissioner may classify or subclassify certifications or licenses as necessary for the administration and enforcement of sections 18A.21 to 18A.45. Such classifications may include, but not be limited to, pest control operators, ornamental, agricultural, or right-of-way pesticide applicators. Separate subclassifications may be specified as to ground, aerial, or manual methods to apply pesticides or to the use of pesticides to control insects, plant diseases, rodents, or weeds. Each classification shall be subject to separate testing procedures and requirements. No person shall be required to pay a fee for any classification or subclassification certificate or license if he has paid the fee for the license under which the particular classification or subclassification is placed.

[ 1976 c 53 s 7 ]

**18A.28 RECORDS, REPORTS.** Subdivision 1. Licensed restricted use pesticide dealer. In addition to other requirements, all persons licensed to sell restricted use pesticides shall maintain records as required by the commissioner. Records shall be submitted periodically and at least once annually but in no case later than 30 days following the end of the license year. Records shall be upon forms supplied by the commissioner. All records required under this section shall be kept and made available for inspection upon request by the commissioner, his agents, or officials of an approved agency for a period of two years from the date of sale.

Subd. 2. Licensed commercial applicator. Each licensed commercial applicator, or his authorized agent, shall keep and maintain a record of land treated. Such a record shall include, but not be limited to, the following: date of treatment; material and dosage used; number of units treated; name and address of customer; name of applicator; and signature of operator. Invoices containing the required information may constitute the required record. A copy of his record shall be given to a consumer. Records shall be kept and be available upon request of the commissioner or his agents or officials of an approved agency for a period of two years from the date of treatment.

Subd. 3. Licensed or registered structural pest control applicator. Each registered or licensed person engaged in structural pest control applications shall maintain records of all structural pest control applications conducted by him or by his employees. The records shall include but not be limited to: the date of treatment; name of chemical used; temperature and exposure time if fumigating; method of application; name and address of customer; and any other information as may be required by the commissioner. Records shall be retained for two years.

Subd. 4. Inspection of records. The commissioner shall have access to the records required to be kept by this section at any reasonable time and to make copies of the records. Unless required for the enforcement of sections 18A.21 to 18A.45, such information shall be confidential and if summarized shall not identify an individual person.

Subd. 5. Reports. Licensed commercial applicators, licensed or registered structural pest control applicators, and licensed noncommercial applicators shall report to the commissioner the use of all restricted use pesticides at least once annually but in no case later than 30 days following the end of the licensed year. Such reports shall be upon forms provided by the commissioner.

Subd. 6. EPA. The commissioner is authorized to make reports to the EPA as it may require.

[ 1976 c 53 s 8 ]

**18A.29 PRIVATE APPLICATORS.** Subdivision 1. No private applicator shall use or supervise the use of any restricted use pesticide without first complying with the certification requirements determined by the commissioner as necessary to prevent unreasonable adverse effects on the environment by the proposed restricted pesticide.

Subd. 2. A private applicator shall be deemed competent to use restricted use pesticides when he attests that he: has read and understands the label; will use the

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pesticide according to the label directions; and is competent to use the pesticide properly.

Subd. 3. The commissioner may through cooperation with various government agencies provide training to ensure that certified private applicators continue to understand changing technology and to ensure a continuing level of competency and ability to use pesticides properly and safely.

[ 1976 c 53 s 9 ]

**18A.30 CLAIM OF DAMAGE; INSPECTION REPORT.** Subdivision 1. A person claiming damage from the application of a pesticide may file with the commissioner a written statement containing his name and address, the name of the person for whom the application was done, the name of the applicator, the date of the application, the date of the damage, a description of the damage, a request that the commissioner inspect the damage, and such other information as the commissioner may require.

Subd. 2. If the statement is filed within 30 days after the pesticide was applied or the damage occurred, or, if the alleged damage is to agricultural crops, prior to the time that 25 percent of the damaged crops have been harvested, whichever is the latest, the commissioner shall inspect the damage to see whether any provisions of sections 18A.21 to 18A.45 have been violated.

Subd. 3. The commissioner shall make a report of his findings and take such further action as he deems necessary. A copy of the report shall be available to any claimant or applicator, or their agents, upon written request.

[ 1976 c 53 s 10 ]

**18A.31 STORAGE, HANDLING, DISPOSAL OF PESTICIDES AND CONTAINERS.** Subdivision 1. No person shall store any pesticide or pesticide container in a manner which is likely to endanger humans, damage agricultural products, damage food and livestock, damage wildlife, damage beneficial insects or pollute the environment.

Subd. 2. All pesticides and their containers shall be disposed of in accordance with law except when returned to the original manufacturer or distributor, or their agents for resale, reformulation, or disposal.

[ 1976 c 53 s 11 ]

**18A.32 INSPECTION, ENFORCEMENT, JUDICIAL ACTION.** Subdivision 1. **Inspection.** (a) The commissioner, and his agents, shall have access at reasonable times to all places where a person manufactures, formulates, distributes, uses, disposes of, stores or transports any pesticide or device and to all places affected by the use of any pesticide or device. The purposes for which entry to such places may be made shall include, but are not limited to:

- (1) Inspect any equipment for the manufacture, formulation, distribution, disposal or application of pesticides and the premises on which such equipment is stored;
- (2) Inspect or sample lands actually or reported to be exposed to pesticides;
- (3) Inspect storage or disposal areas;
- (4) Inspect or investigate complaints of injury to humans, wildlife, domesticated animals, or land;
- (5) Sample pesticides being applied or to be applied; or
- (6) Observe the use and application of a pesticide.

(b) Prior to leaving the premises inspected the commissioner shall give the owner, operator, or agent in charge, a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of such analysis shall be furnished to the owner, operator, or agent in charge.

Subd. 2. **Enforcement.** (a) When the commissioner has reasonable cause to believe a pesticide or device is being distributed, stored, transported or used in violation of sections 18A.21 to 18A.45, or of any rules thereunder, he may issue and serve a written stop-sale, use, or removal order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order, the commissioner may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device shall not be sold, used, or removed until the violation has been corrected and the pesticide or device has been re-

leased in writing under conditions specified by the commissioner, or until the violation has been otherwise disposed of by a court.

(b) If the commissioner is denied access to any land, he may apply to a court of competent jurisdiction for a search warrant authorizing access to the land. The court may, upon such application, issue the search warrant for the purpose requested upon a showing that probable cause exists that a violation of sections 18A.21 to 18A.45 is occurring or has occurred upon such land.

Subd. 3. **Judicial action.** (a) The commissioner is charged with the duty of enforcing sections 18A.21 to 18A.45 and any rules thereunder. In the event a county attorney refuses to act on behalf of the commissioner the attorney general may so act.

(b) The commissioner may bring an action to enjoin a violation or threatened violation of sections 18A.21 to 18A.45 or any rule thereunder in a court of competent jurisdiction of the county in which such violation occurs or is about to occur.

(c) The commissioner when he believes that the public interest will be served best by so doing may seek to remedy minor violations by a suitable notice of warning in writing.

(d) The commissioner, after notice and hearing, may revoke, suspend or refuse to renew a registration, license, or certificate when a person is in violation of sections 18A.21 to 18A.45 or rules thereunder.

[ 1976 c 53 s 12 ]

**18A.33 SUBPOENAS.** The commissioner may issue subpoenas to compel the attendance of witnesses or production of books, documents and records in any hearing affecting the authority or privilege granted by a license, registration, certification, or permit issued under sections 18A.21 to 18A.45.

[ 1976 c 53 s 13 ]

**18A.34 COOPERATIVE AGREEMENTS.** The commissioner is authorized to enter into cooperative agreements with federal and state agencies for training, certification, and enforcement programs.

[ 1976 c 53 s 14 ]

**18A.35 PROTECTION OF TRADE SECRETS.** Subdivision 1. In submitting data required by sections 18A.21 to 18A.45, the applicant may:

(a) Clearly mark any portions thereof which in his opinion are trade secrets, commercial, or financial information; and

(b) Submit such marked material separately from other material.

Subd. 2. The commissioner shall not make any information public which in his judgment contains or relates to trade secrets or to commercial or financial information and obtained from a person who marked it privileged or confidential. When necessary, information relating to formulas of products may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of facts issued by the commissioner.

Subd. 3. If the commissioner proposes to release information which the applicant or registrant believes to be protected from disclosure under subdivision 2 he shall notify the applicant or registrant by certified mail. The commissioner shall not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether such information is subject to protection under subdivision 2.

[ 1976 c 53 s 15 ]

**18A.36 FINANCIAL RESPONSIBILITY.** Subdivision 1. Prior to issuance or renewal of a commercial applicator license or structural pest control applicator registration or license, the applicant shall furnish proof of financial responsibility of net assets equal to or greater than \$50,000, or by means of a performance bond or insurance covering the applicant's pest control activities in an amount determined by the commissioner. Such bond or insurance shall cover a period of time at least equal to the term of the applicant's license or registration. The commissioner shall immediately suspend the license of anyone failing to maintain the required bond or insurance. The performance bond or insurance policy shall contain a provision requiring the insur-

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ance or bonding company to notify the commissioner ten days prior to the effective date of cancellation, termination or any other change of the bond or insurance. In the event of any recovery against the bond or insurance, additional coverage shall be secured so as to maintain financial responsibility equal to the original amount required.

Subd. 2. An employee of a registered or licensed person need not maintain an insurance policy or bond during the time when his employer is maintaining the required insurance or bond.

Subd. 3. Applications for reinstatement of a registration or license suspended under the provisions of this section shall be accompanied by proof of satisfaction of judgments previously rendered.

[ 1976 c 53 s 16 ]

**18A.37 INCIDENTS.** The commissioner is authorized to apply appropriate and efficient procedures to contain and control pesticides involved in an emergency, which is an incident likely to cause adverse effects on the environment. For purposes of this section an incident includes a flood, fire, tornado, or motor vehicle accident, which unintentionally releases pesticides on the environment. Persons involved in or responsible for an incident shall report the incident to the commissioner immediately on discovering the incident. The department of agriculture shall be the lead government agency for decisions involving the emergency.

[ 1976 c 53 s 17 ]

**18A.38 AGENT FOR SERVICE OF PURPOSE.** All nonresident commercial and structural pest control applicator licensees licensed as individuals shall appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner shall be deemed to be service on the licensee.

[ 1976 c 53 s 18 ]

**18A.39 DELEGATION OF DUTIES.** The functions vested in the commissioner by sections 18A.21 to 18A.45 may be delegated by him to such employees or agents of the department as he may from time to time designate.

[ 1976 c 53 s 19 ]

**18A.40 RECIPROCAL AGREEMENT.** The commissioner may waive all or part of the examination requirements provided for in sections 18A.21 to 18A.45 on a reciprocal basis with any other jurisdiction which has substantially the same requirements. Licenses or certificates issued pursuant to this section may be suspended or revoked upon suspension or revocation of the license or certificate of another jurisdiction supporting the issuance of a Minnesota license or certificate and in the same manner as other licenses and certificates.

[ 1976 c 53 s 20 ]

**18A.41 DISPOSITION OF FUNDS.** All moneys received by the commissioner under the provisions of sections 18A.21 to 18A.45 shall be deposited in the state treasury to the credit of the general fund.

[ 1976 c 53 s 21 ]

**18A.42 UNSATISFIED JUDGMENTS.** No applicant for commercial or structural pest control applicator license nor any commercial or structural pest control applicator licensee shall permit any final judgment against him for damages arising out of his carrying on pesticide application operations for hire to remain unsatisfied for a period of more than 30 days. The commissioner shall suspend the registration or license of any person for failure to satisfy within 30 days a final judgment resulting from pest control activities.

[ 1976 c 53 s 22 ]

**18A.43 ADOPTION OF RULES.** Subdivision 1. The commissioner is authorized to adopt rules necessary for the enforcement of sections 18A.21 to 18A.45 including, but not limited to, the following:

(a) The declaration of any form of plant or animal life which is injurious to health or the environment as a pest, other than man and other than bacteria viruses and other micro-organisms on or in living man or other living animals.

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- (b) The collection, examination and reporting of samples of pesticides.
- (c) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers.
- (d) The labeling requirements of all pesticides required to be registered under sections 18A.23 and 18A.24.
- (e) The prescription of methods to be used in the application of pesticides, including the designation of a pesticide as a restricted use pesticide where the commissioner finds that it is necessary to protect the environment and to carry out the purpose and intent of sections 18A.21 to 18A.45.
- (f) The requirement that any pesticides registered be colored or discolored if it is determined that such requirement is feasible and is necessary for the protection of the environment.
- (g) The establishment of standards for packages and wrappings of pesticides registered for special local needs.
- (h) The determination of state restricted use pesticides for the state or for designated areas within the state for the purpose of uniformity and in order to enter into cooperative agreements.
- (i) The amount of performance bond or liability insurance required pursuant to section 18A.36.

Subd. 2. Rules adopted pursuant to sections 18A.21 to 18A.45 shall not permit any pesticide use which is prohibited by FIFRA and regulations or orders issued thereunder.

Subd. 3. Rules adopted pursuant to sections 18A.21 to 18A.45 and relating to certified applicators of restricted use pesticides, special local needs registrations, and experimental use permits shall not be inconsistent with the requirements of FIFRA and regulations promulgated thereunder.

[ 1976 c 53 s 23 ]

**18A.44 PRIOR LIABILITY.** Sections 18A.21 to 18A.45 shall not terminate or in any way modify any civil or criminal liability for an act of commission or omission occurring prior to January 1, 1977.

[ 1976 c 53 s 24 ]

**18A.45 PENALTIES.** Subdivision 1. Any person violating sections 18A.21 to 18A.45 or rules thereunder is guilty of a misdemeanor for the first violation and a gross misdemeanor for any subsequent violation.

Subd. 2. If there was no probable cause for an administrative action, including the issuance of a stop-sale, use, or removal order, a court may allow recovery for damages caused by the administrative action.

[ 1976 c 53 s 25 ]

**18A.48 SALE OR USE OF CERTAIN CHEMICAL PROHIBITED; PENALTY.** Subdivision 1. No person shall sell, offer for sale, or use any pesticide as defined by section 18A.21, subdivision 25, containing in excess of 0.1 parts per million of 2,3,7, 8-tetrachlorodibenzo-para-dioxin (TCDD).

Subd. 2. The application of any pesticide containing TCDD shall be restricted to those licensed commercial applicators regulated by the commissioner of agriculture under the provisions of Laws 1976, Chapter 53, for any application to an area greater than 10 acres. An application to an area of less than 10 acres by a private applicator as defined in section 18A.21, subdivision 27, shall be lawful.

Subd. 3. No aerial application of a pesticide containing TCDD shall be made by other than a licensed commercial applicator. Prior to any such aerial application the applicator must obtain a special permit from the commissioner of agriculture who, with the concurrence of the commissioner of the department of natural resources, shall certify the proposed use is safe and that there is no feasible alternative.

Subd. 4. A violation of this act is a misdemeanor. Each day of violation is a separate offense.

[ 1976 c 336 s 1-4 ]