

CHAPTER 18B

PESTICIDE CONTROL

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18B.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Approved agency.** "Approved agency" means a state agency, other than the department of agriculture, or an agency of a county, municipality, or other political subdivision that has signed a joint powers agreement under section 471.59 with the commissioner.

Subd. 3. **Beneficial insects.** "Beneficial insects" means insects that are: (1) effective pollinators of plants; (2) parasites or predators of pests; or (3) otherwise beneficial.

Subd. 4. **Bulk pesticide.** "Bulk pesticide" means a pesticide that is held in an individual container, with a pesticide content of 56 United States gallons or more, or 100 pounds or greater net dry weight.

Subd. 5. **Commercial applicator.** "Commercial applicator" means a person who has a commercial applicator license.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of agriculture or an agent authorized by the commissioner.

Subd. 7. **Device.** "Device" means an instrument or contrivance, other than a firearm, that is intended or used to destroy, repel, or mitigate a pest, a form of plant or animal life other than humans, or a bacterium, virus, or other microorganism on or in living animals, including humans. A device does not include equipment used for the application of pesticides if the equipment is sold separately from the instrument or contrivance.

Subd. 8. **Distribute.** "Distribute" means offer for sale, sell, barter, ship, deliver for shipment, receive and deliver, and offer to deliver pesticides in this state.

Subd. 9. **Environment.** "Environment" means surface water, ground water, air, land, plants, humans, and animals and their interrelationships.

Subd. 10. **FIFRA.** "FIFRA" means the Federal Insecticide, Fungicide, Rodenticide Act, United States Code, title 7, sections 136 to 136y, and regulations under Code of Federal Regulations, title 40, subchapter E, parts 150 to 180.

Subd. 11. **Hazardous waste.** "Hazardous waste" means any substance identified or listed as hazardous waste in the rules adopted under section 116.07, subdivision 4.

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

Subd. 13. **Label.** "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or their containers or wrappers.

Subd. 14. **Labeling.** "Labeling" means all labels and other written, printed, or graphic matter:

- (1) accompanying the pesticide or device;
- (2) referred to by the label or literature accompanying the pesticide or device; or
- (3) that relates or refers to the pesticide or to induce the sale of the pesticide or device.

"Labeling" does not include current official publications of the United States Environmental Protection Agency, 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.

Subd. 15. **Noncommercial applicator.** "Noncommercial applicator" means a person with a noncommercial applicator license.

Subd. 16. **Person.** "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, unincorporated organization, the state, a state agency, or political subdivision.

Subd. 17. **Pest.** "Pest" means an insect, rodent, nematode, fungus, weed, terrestrial or aquatic plant, animal life, virus, bacteria, or other organism designated by rule as a pest, except a virus, bacteria, or other microorganism on or in living humans or other living animals.

Subd. 18. **Pesticide.** "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate a pest, and a substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Subd. 19. **Pesticide dealer.** "Pesticide dealer" means a person with a pesticide dealer license.

Subd. 20. **Plant regulator.** "Plant regulator" means a 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 of the plants. Plant regulator does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

Subd. 21. **Private applicator.** "Private applicator" means a person certified to use or supervise use of restricted use pesticides.

Subd. 22. **Registrant.** "Registrant" means a person that has registered a pesticide under this chapter.

Subd. 23. **Responsible party.** "Responsible party" means a person who at the time of an incident has custody of, control of, or responsibility for a pesticide, pesticide container, or pesticide rinsate.

Subd. 24. **Restricted use pesticide.** "Restricted use pesticide" means a pesticide formulation designated as a restricted use pesticide under FIFRA or by the commissioner under this chapter.

Subd. 25. **Rinsate.** "Rinsate" means a dilute mixture of a pesticide or pesticides with water, solvents, oils, commercial rinsing agents, or other substances, that is

produced by or results from the cleaning of pesticide application equipment or pesticide containers.

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

Subd. 27. **Site.** "Site" 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. 28. **Structural pest.** "Structural pest" means a pest, other than a plant, in, on, under, or near a structure.

Subd. 29. **Structural pest control.** "Structural pest control" means the control of any structural pest through the use of a device, a procedure, or application of pesticides in or around a building or other structures, including trucks, boxcars, ships, aircraft, docks, and fumigation vaults, and the business activity related to use of a device, a procedure, or application of a pesticide.

Subd. 30. **Structural pest control applicator.** "Structural pest control applicator" means a person with a structural pest control license.

Subd. 31. **Unreasonable adverse effects on the environment.** "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Subd. 32. **Wildlife.** "Wildlife" means all living things that are not human, domesticated, or pests.

History: 1987 c 358 s 43

18B.02 PREEMPTION OF OTHER LAW.

Except as specifically provided in this chapter, the provisions of this chapter preempt ordinances by local governments that prohibit or regulate any matter relating to the registration, labeling, distribution, sale, handling, use, application, or disposal of pesticides. It is not the intent of this section to preempt local responsibilities for zoning, fire codes, or hazardous waste disposal.

History: 1987 c 358 s 44

18B.03 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the department of agriculture is the lead state agency for the regulation of pesticides.

Subd. 2. **Delegation of duties.** The functions vested in the commissioner by this chapter may be delegated to designated employees or agents of the department of agriculture.

Subd. 3. **Delegation to approved agencies.** The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of approved agencies.

History: 1987 c 358 s 45

18B.04 PESTICIDE IMPACT ON WATER QUALITY.

The commissioner shall:

- (1) determine the impact of pesticides on surface and ground water in this state;
- (2) develop best management practices involving pesticide distribution, storage, handling, use, and disposal; and
- (3) cooperate with and assist other state agencies and local governments to protect public health and the environment from harmful exposure to pesticides.

History: 1987 c 358 s 46

18B.05 PESTICIDE REGULATORY ACCOUNT.

Subdivision 1. **Establishment.** A pesticide regulatory account is established in the state treasury. Fees and penalties except penalties collected under section 18B.23, subdivision 4, collected under this chapter must be deposited in the state treasury and credited to the pesticide regulatory account.

Subd. 2. **Annual appropriation.** Money in the account, including amount of interest attributable to money in the account and any money appropriated for the purposes of this chapter, is annually appropriated to the commissioner for the administration and enforcement of this chapter.

History: 1987 c 358 s 47

18B.06 RULES.

Subdivision 1. **Authority.** The commissioner shall adopt rules to implement and enforce this chapter including procedures addressing local control of pesticide regulation. Rules adopted under this chapter are part of this chapter and a violation of the rules is a violation of a provision of this chapter.

Subd. 2. **Conformity with FIFRA.** Rules adopted under this chapter:

- (1) may not allow pesticide use that is prohibited by FIFRA; or
- (2) relating to private applicators of restricted use pesticides and special local needs registrations, may not be inconsistent with the requirements of FIFRA.

Subd. 3. **Pesticide use, handling, and disposal.** The commissioner shall adopt rules, including emergency rules, to govern the distribution, use, storage, handling, and disposal of pesticides, rinsates, and pesticide containers.

History: 1987 c 358 s 48

18B.07 PESTICIDE USE, APPLICATION, AND EQUIPMENT CLEANING.

Subdivision 1. **Pesticide use.** Pesticides must be applied in accordance with the product label or labeling and in a manner that will not cause unreasonable adverse effects on the environment within limits prescribed by this chapter and FIFRA.

Subd. 2. **Prohibited pesticide use.** (a) A person may not use, store, handle, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

- (1) inconsistent with labeling;
- (2) that endangers humans, damages agricultural products, food, livestock, fish, wildlife, or beneficial insects; or

- (3) that will cause unreasonable adverse effects on the environment.

(b) A person may not direct a pesticide on property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray.

(d) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

Subd. 3. **Posting.** (a) If the pesticide labels prescribe specific hourly or daily intervals for human reentry following application, the person applying the pesticide must post fields, buildings, or areas where the pesticide has been applied. The posting must be done with placards in accordance with label requirements and rules adopted under this section.

(b) Fields being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment.

Subd. 4. **Pesticide safeguards at application sites.** A person may not allow a pesticide, rinsate, or unrinsed pesticide container to be stored, kept, or to remain in or on any site without safeguards adequate to prevent the escape or movement of the pesticides from the site.

Subd. 5. Use of public water supplies for filling equipment. A person may not fill pesticide application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with the Minnesota Plumbing Code under Minnesota Rules, parts 4715.2000 to 4715.2280.

Subd. 6. Use of public waters for filling equipment. (a) A person may not fill pesticide application equipment directly from public waters of the state, as defined in section 105.37, subdivision 14, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

(b) This subdivision does not apply to permitted applications of aquatic pesticides to public waters.

Subd. 7. Cleaning equipment in or near surface water. (a) A person may not:

(1) clean pesticide application equipment in surface waters of the state; or

(2) fill or clean pesticide application equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, pesticides or materials contaminated with pesticides could enter or contaminate the surface waters, ground water, or wells, as a result of overflow, leakage, or other causes.

(b) This subdivision does not apply to permitted application of aquatic pesticides to public waters.

Subd. 8. Pesticide, rinsate, and container disposal. A person may only dispose of pesticide, rinsate, and pesticide containers in accordance with this chapter and FIFRA. The manner of disposal must not cause unreasonable adverse effects on the environment.

History: 1987 c 358 s 49

18B.08 CHEMIGATION.

Subdivision 1. Permit required. (a) A person may not apply pesticides through an irrigation system without a chemigation permit from the commissioner. Only one chemigation permit is required for two or more wells that are protected from contamination by the same devices. The commissioner may allow irrigation to be used to apply pesticides on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

(b) A person must apply for a chemigation permit on forms prescribed by the commissioner.

Subd. 2. Pesticide. A pesticide used under a chemigation permit must be suitable and labeled for application through an irrigation system.

Subd. 3. Equipment. A chemigation system must be fitted with effective antisiphon devices or check valves that prevent the backflow of pesticides or pesticide-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump discharge and the point of pesticide injection; and

(2) the point of pesticide injection and the pesticide supply.

Subd. 4. Application fee. A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50 for each well that is to be used in applying the pesticides by irrigation.

Subd. 5. Rules. The commissioner shall, by rule, develop specific requirements for implementation of a program to regulate application of pesticides by irrigation.

History: 1987 c 358 s 50

18B.09 PESTICIDE APPLICATION IN CITIES.

Subdivision 1. Applicability. This section applies only to statutory and home rule charter cities that enact ordinances as provided in this section.

Subd. 2. **Authority.** Statutory and home rule charter cities may enact an ordinance containing the pesticide application warning information contained in subdivision 3, including their own licensing, penalty, and enforcement provisions. Statutory and home rule charter cities may not enact an ordinance that contains more restrictive pesticide application warning information than is contained in subdivision 3.

Subd. 3. **Warning signs for pesticide application.** (a) All commercial or noncommercial applicators who apply pesticides to turf areas must post or affix warning signs on the property where the pesticides are applied.

(b) Warning signs must project at least 18 inches above the top of the grass line. The warning signs must be of a material that is rain-resistant for at least a 48-hour period and must remain in place up to 48 hours from the time of initial application.

(c) The following information must be printed on the warning sign in contrasting colors and capitalized letters measuring at least one-half inch, or in another format approved by the commissioner. The sign must provide the following information:

(1) the name of the business organization, entity, or person applying the pesticide; and

(2) the following language: "This area chemically treated. Keep children and pets off until ...(date of safe entry)..." or a universally accepted symbol and text approved by the commissioner that is recognized as having the same meaning or intent as specified in this paragraph. The warning sign may include the name of the pesticide used.

(d) The warning sign must be posted on a lawn or yard between two feet and five feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds, or other similar recreational property, the warning signs must be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrances to the property.

History: 1987 c 358 s 51

18B.10 ACTION TO PREVENT GROUND WATER CONTAMINATION.

The commissioner may, by rule, special order, or delegation through written regulatory agreement with officials of other approved agencies, take action necessary to prevent the contamination of ground water resulting from leaching of pesticides through the soil, from the backsiphoning or backflowing of pesticides through water wells, or from the direct flowage of pesticides to ground water.

History: 1987 c 358 s 52

18B.11 SALE AND USE OF TCDD.

A person may not sell, offer for sale, or use a pesticide containing in excess of 0.1 parts per million of 2,3,7, 8-tetrachlorodibenzo-para-dioxin (TCDD).

History: 1987 c 358 s 53

18B.12 SALE AND DISTRIBUTION OF ADULTERATED PESTICIDES.

A person may not offer for sale or distribute a pesticide that is determined by the commissioner to be adulterated, including a pesticide that has:

(1) a strength or purity that does not meet the standard of quality expressed on its label;

(2) a constituent entirely or partially substituted; or

(3) an important or necessary constituent entirely or partially removed.

History: 1987 c 358 s 54

18B.13 SALE AND DISTRIBUTION OF MISBRANDED PESTICIDES AND DEVICES.

A person may not offer for sale or distribute a pesticide or device determined by the commissioner to be misbranded, including a pesticide or device that:

(1) is an imitation of or is offered for sale under the name of another pesticide or device; or

(2) does not comply with the labeling requirements under this chapter or FIFRA.

History: 1987 c 358 s 55

18B.14 PESTICIDE STORAGE.

Subdivision 1. Display and storage. (a) A person may store or display pesticides and their containers only in the original container and separated from food, feed, seed, livestock remedies, drugs, plants, and other products or materials stored, displayed, or offered for sale in a manner that prevents contamination which would cause injury or damage to the other products or materials.

(b) A person may not allow open pesticide containers to be displayed for sale under any circumstances.

Subd. 2. Bulk pesticide storage. (a) A person storing pesticides in containers of a rated capacity of 500 gallons or more must obtain a pesticide storage permit from the commissioner.

(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.

(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.

History: 1987 c 358 s 56

18B.15 PESTICIDE RELEASE INCIDENTS.

Subdivision 1. Duties of responsible party. (a) A responsible party involved in an incident must immediately report the incident to the department of agriculture and provide information as requested by the commissioner. The responsible party must pay for the costs and immediately take all action necessary to minimize or abate the release and to recover pesticides involved in the incident.

(b) The responsible party must submit a written report of the incident to the commissioner containing the information requested by the commissioner within the time specified by the commissioner.

Subd. 2. Commissioner's action. (a) If in the judgment of the commissioner the responsible party does not take immediate and sufficient action to abate the release of and to recover the pesticide, the commissioner may take action necessary to mitigate or correct the conditions resulting from an incident. The responsible party must reimburse the commissioner for the costs incurred by the commissioner in the enforcement of this subdivision.

(b) The department of agriculture is the lead state agency for responding to and taking action with regard to pesticide incidents.

History: 1987 c 358 s 57

18B.16 EMPLOYER LIABILITY FOR EMPLOYEES.

Structural pest control applicators, commercial applicators, noncommercial applicants and pesticides dealers are criminally liable for violations of this chapter by their employees and agents.

History: 1987 c 358 s 58

18B.17 COOPERATIVE INSPECTION AND ENFORCEMENT AGREEMENTS.

Subdivision 1. **Cooperative agreements.** The commissioner may enter into cooperative agreements with federal and state agencies for training, certification, inspection, and enforcement programs and may make reports to the United States Environmental Protection Agency and other federal agencies as required or requested. The commissioner may adopt and enforce federal standards, regulations, or orders relating to pesticide regulation when determined to be in the best interest of citizens of the state.

Subd. 2. **Training agreements.** For purposes of training only, the commissioner may enter into agreements with qualified public or private organizations that wish to offer training programs.

History: 1987 c 358 s 59

18B.18 INSPECTION.

Subdivision 1. **Access and entry.** (a) The commissioner, and the commissioner's agents, upon issuance of a notice of inspection, must be granted access at reasonable times to (1) sites where a restricted use pesticide is used; (2) where a person manufactures, formulates, distributes, uses, disposes of, stores, or transports a pesticide in violation of provisions of this chapter; and (3) to all sites affected, or possibly affected, by the use of a pesticide, rinsate, pesticide container, or device in violation of a provision of this chapter.

(b) The commissioner and commissioner's agents may enter sites for:

(1) inspection of equipment for the manufacture, formulation, distribution, disposal, or application of pesticides and the premises on which the equipment is stored;

(2) sampling of sites actually or reportedly exposed to pesticides;

(3) inspection of storage, handling, distribution, use, or disposal areas of pesticides or pesticide containers;

(4) inspection or investigation of complaints of injury to humans, wildlife, domesticated animals, crops, or the environment;

(5) sampling of pesticides;

(6) observation of the use and application of a pesticide;

(7) inspection of records related to the manufacture, distribution, use, or disposal of pesticides; and

(8) other purposes necessary to implement this chapter.

Subd. 2. **Notice of inspection samples and analyses.** Before leaving the premises inspected, the commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.

History: 1987 c 358 s 60

18B.19 PRIVATE REQUEST FOR INSPECTION OF VIOLATION.

Subdivision 1. **Statement of violation.** A person that suspects a provision of this chapter has been violated may file a written inspection request with the commissioner. The written request must contain:

(1) the person's name and address;

(2) the name of the person for whom the application was done;

(3) the name of the applicator;

(4) the date of the application;

(5) a description of the suspected violation; and

(6) other information the commissioner may require.

Subd. 2. **Inspection for suspected violation.** If the request for inspection is filed

within 60 days after the pesticide was applied or damage has occurred, the commissioner shall investigate to determine if provisions of this chapter have been violated. The commissioner may discontinue the investigation after determining provisions of this chapter have not been violated.

Subd. 3. Inspection file disclosure. Copies of completed inspection files are available to the person making the inspection request, the applicator, or their agents, upon written request.

History: 1987 c 358 s 61

18B.20 ENFORCEMENT.

Subdivision 1. Enforcement required. (a) The commissioner shall enforce this chapter.

(b) Upon the request of the commissioner or an agent authorized by the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter, or special orders, standards, stipulations, and agreements of the commissioner.

Subd. 2. Criminal actions. For a criminal action, the county attorney where a violation occurred is responsible for prosecuting a violation of a provision of this chapter. If the county attorney refuses to prosecute, the attorney general may prosecute.

Subd. 3. Civil actions. Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and the attorney general.

Subd. 4. Injunction. The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of provisions of this chapter.

Subd. 5. Agent for service of process. All nonresident commercial and structural pest control applicator licensees licensed as individuals must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee.

Subd. 6. Subpoenas. The commissioner may issue subpoenas to compel the attendance of witnesses or submission of books, documents, and records affecting the authority or privilege granted by a license, registration, certification, or permit issued under this chapter.

History: 1987 c 358 s 62

18B.21 ADMINISTRATIVE ACTION.

Subdivision 1. Administrative remedies. The commissioner may seek to remedy violations by a written warning, administrative meeting, cease and desist, stop-use, stop-sale, or other special order, seizure, stipulation, or agreement, if the commissioner determines that the remedy is in the public interest.

Subd. 2. Revocation and suspension. The commissioner may, after written notice and hearing, revoke, suspend, or refuse to renew a registration, permit, license, or certification if a person violates a provision of this chapter.

Subd. 3. Remedial action orders. (a) If the commissioner has probable cause that a pesticide, pesticide container, rinsate, pesticide equipment, or device is being used, manufactured, distributed, stored, or disposed of in violation of a provision of this chapter, the commissioner may investigate and issue a written cease and desist, stop-sale, stop-use, or removal order or other remedial action to the owner, custodian, or other responsible party. If the owner, custodian, or other responsible party is not available for service of the order, the commissioner may attach the order to the pesticide, pesticide container, rinsate, pesticide equipment, or device or facility and

notify the owner, custodian, other responsible party, or the registrant. The pesticide, pesticide container, rinsate, pesticide equipment, or device may not be sold, used, or removed until the violation has been corrected and the pesticide, pesticide container, rinsate, pesticide equipment, or device has been released in writing under conditions specified by the commissioner, or until the violation has been otherwise disposed of by a court.

(b) If a violation of a provision of this chapter results in conditions that may have an unreasonable adverse effect on humans, domestic animals, wildlife, or the environment, the commissioner may, by order, require remedial action, including removal and proper disposal.

History: 1987 c 358 s 63

18B.22 DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.

If the commissioner did not have probable cause for an administrative action, including the issuance of a stop-sale, use, or removal order, a court may allow recovery for damages caused by the administrative action.

History: 1987 c 358 s 64

18B.23 CIVIL PENALTIES.

Subdivision 1. General penalty. Except as provided in subdivisions 2 and 5, a person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$10,000 per day of violation as determined by the court.

Subd. 2. Disposal that becomes hazardous waste. A person who violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner that relates to disposal of pesticides so that they become hazardous waste, is subject to a civil penalty of up to \$25,000 per day of violation as determined by the court.

Subd. 3. Cleanup costs. A person who violates a provision of this chapter is liable for and must pay to the state a sum that will compensate the state for the reasonable value of cleanup and other expenses directly resulting from the illegal use, storage, handling, or disposal of pesticides, whether accidental or otherwise.

Subd. 4. Wildlife and other damages. (a) A person who violates a provision of this chapter is liable for and must pay to the state a sum to constitute just compensation for the loss or destruction of wildlife, fish, or other aquatic life, and for actual damages to the state caused by the illegal use, storage, handling, or disposal of pesticides.

(b) The amounts paid as compensation for loss of or destruction to wildlife, fish, or other aquatic life must be deposited into the state treasury and credited to the game and fish fund.

Subd. 5. Directly spraying humans. A person who directly applies pesticides on a human by target site spraying in an open field is subject to a civil penalty up to \$5,000 as determined by the court.

Subd. 6. Defense to civil remedies and damages. As a defense to a civil penalty or claim for damages under subdivisions 1 to 4, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Subd. 7. Actions to compel performance. In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 8. Recovery of penalties by civil action. The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

Subd. 9. **Recovery of litigation costs and expenses.** In an action brought by the attorney general or a county attorney in the name of the state under this chapter for civil penalties, injunctive relief, or in an action to compel compliance, if the state finally prevails, the state, in addition to other penalties provided in this chapter, must be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses including attorney fees incurred by the state or county attorney. In determining the amount of these litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

History: 1987 c 358 s 65.

18B.24 UNSATISFIED JUDGMENTS.

(a) An applicant for a commercial, noncommercial, or structural pest control license and a commercial, noncommercial, or structural pest control applicator may not allow a final judgment against the applicant or applicator for damages arising from a violation of a provision of this chapter to remain unsatisfied for a period of more than 30 days.

(b) Failure to satisfy within 30 days a final judgment resulting from these pest control activities will result in automatic suspension of the applicator license.

History: 1987 c 358 s 66

18B.25 CRIMINAL PENALTIES.

Subdivision 1. **General violation.** Except as provided in subdivisions 2 and 3, a person is guilty of a misdemeanor, if the person violates a provision of this chapter, or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 2. **Violation endangering humans.** A person is guilty of a gross misdemeanor if the person violates a provision of this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.

Subd. 3. **Violation with knowledge.** A person is guilty of a gross misdemeanor if the person knowingly violates a provision of this chapter or standard, a special order, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 4. **Disposal that becomes hazardous waste.** A person who knowingly, or with reason to know, disposes of a pesticide so that the product becomes hazardous waste is subject to the penalties in section 115.071.

History: 1987 c 358 s 67

18B.26 PESTICIDE REGISTRATION.

Subdivision 1. **Requirement.** A person may not use or distribute a pesticide in this state unless it is registered with the commissioner. Pesticide registrations expire on December 31 of each year and may be renewed on or before that date for the following calendar year. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as an ingredient in the formulation of a pesticide that is registered under this chapter.

Subd. 2. **Application.** (a) A person must file an application for registration with the commissioner. The application must include:

- (1) 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;
- (2) the brand name of the pesticide;
- (3) other necessary information required by the registration application form;
- (4) a true and complete copy of the labeling accompanying the pesticide as provided for in FIFRA; and
- (5) current material safety data sheets for each pesticide.

(b) As part of the application, the commissioner may require the submission of any relevant information including the complete formula of a pesticide, including the active and inert ingredients.

Subd. 3. Application fee. (a) An application for initial registration and renewal must be accompanied by a nonrefundable application fee of \$125 for each pesticide to be registered.

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) An additional fee of \$200 must be paid by the applicant for each pesticide distributed or used in the state before initial state registration.

Subd. 4. Effect of registration after renewal application. If a registration is in effect on December 31 and a renewal application has been made and the application fee paid, the registration continues in full force and effect until the commissioner notifies the applicant that the registration is denied or canceled, or the renewed registration expires.

Subd. 5. Application review and registration. (a) The commissioner may not deny the registration of a pesticide because the commissioner determines the pesticide is not essential.

(b) The commissioner shall review each application and may approve, deny, or cancel the registration of any pesticide. The commissioner may impose state use restrictions on a pesticide as part of the registration to prevent unreasonable adverse effects on the environment.

(c) The commissioner must notify the applicant of the approval, denial, cancellation, or state use restrictions within 30 days after the application and fee are received.

(d) The applicant may request a hearing on any adverse action of the commissioner within 30 days after being notified by the commissioner.

History: 1987 c 358 s 68

18B.27 PESTICIDE REGISTRATION FOR SPECIAL LOCAL NEEDS.

Subdivision 1. Application. (a) A person must file an application for a special local need application with the commissioner. The application must meet the requirements of section 18B.26, subdivision 2, and the commissioner may require other relevant information.

(b) The commissioner may require a full description of tests and test results upon which claims are based for:

- (1) a pesticide use that is not registered under section 18B.26 or FIFRA; or
- (2) a pesticide on which restrictions are being considered.

(c) The applicant may request in writing privacy of information submitted as provided in section 18B.38.

Subd. 2. Application review. (a) After reviewing the application accompanied by the application fee, the commissioner shall, subject to the terms and conditions of the authorization by the administrator of the United States Environmental Protection Agency to register pesticides to meet special local needs, register pesticides if the commissioner determines that:

- (1) the pesticide's composition warrants the proposed claims for the pesticide;
 - (2) the pesticide's label and other material required to be submitted comply with this chapter;
 - (3) the pesticide will perform its intended function without unreasonable adverse effect on the environment;
 - (4) the pesticide will not generally cause unreasonable adverse effects on the environment when used in accordance with label directions; and
 - (5) a special local need for the pesticide exists.
- (b) The commissioner may revoke or modify a special local need registration if the

commissioner determines that the terms or conditions of the registration do not comply with paragraph (a).

Subd. 3. Application fee. An application fee for a special local need registration must be accompanied by a nonrefundable fee of \$125.

History: 1987 c 358 s 69

18B.28 EXPERIMENTAL USE PESTICIDE PRODUCT REGISTRATION.

Subdivision 1. Requirement. A person may not use or distribute an experimental use pesticide product in the state until it is registered with the commissioner. Experimental use pesticide product registrations expire on December 31 of each year and may be renewed on or before that date.

Subd. 2. Application review and registration. (a) After reviewing the application accompanied by the application fee, the commissioner may issue an experimental use pesticide product registration if the commissioner determines that the applicant needs the registration to accumulate information necessary to register a pesticide under section 18B.26. The commissioner may prescribe terms, conditions, and a limited period of time for the experimental use product registration. After an experimental use pesticide product registration is issued, the commissioner may revoke or modify the registration at any time if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(b) The commissioner may deny issuance of an experimental use pesticide product registration permit if the commissioner determines that issuance of a registration 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.

Subd. 3. Application. A person must file an application for experimental use pesticide product registration with the commissioner. An application to register an experimental use pesticide product must include:

- (1) the name and address of the applicant;
- (2) a federal environmental protection agency approval document;
- (3) the purpose or objectives of the experimental use product;
- (4) an accepted experimental use pesticide product label;
- (5) the name, address, and telephone number of cooperators or participants in this state;
- (6) the amount of material to be shipped or used in this state; and
- (7) other information requested by the commissioner.

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.

(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.

History: 1987 c 358 s 70

18B.29 RECIPROCAL LICENSING AND CERTIFICATION AGREEMENTS.

The commissioner may waive all or part of the examination requirements provided for in sections 18B.29 to 18B.35 on a reciprocal basis with any other jurisdiction which has substantially the same requirements. Licenses or certificates issued under sections 18B.29 to 18B.35 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.

History: 1987 c 358 s 71

18B.30 PESTICIDE USE LICENSE REQUIREMENT.

A person may not use or supervise the use of a restricted use pesticide without a

license or certification required under sections 18B.29 to 18B.35 and the use may only be done under conditions prescribed by the commissioner.

History: 1987 c 358 s 72

18B.31 PESTICIDE DEALER LICENSE.

Subdivision 1. Requirement. (a) Except as provided in paragraph (b), a person may not distribute or possess restricted use pesticides or bulk pesticides with an intent to distribute them to an ultimate user without a pesticide dealer license.

(b) The pesticide dealer license requirement does not apply to:

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

(2) a federal, state, county, or municipal agency using restricted use pesticides for its own programs;

(3) a licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in the pharmacist's, physician's, dentist's, or veterinarian's practice; or

(4) a distributor or wholesaler shipping restricted use pesticides to commercial applicators who are the ultimate users.

(c) A licensed pesticide dealer may sell restricted use pesticides only to an applicator licensed or certified by the commissioner, unless a sale is allowed by rule.

Subd. 2. Responsibility. A pesticide dealer is responsible for the acts of a person who assists the dealer in the solicitation and sale of restricted use pesticides.

Subd. 3. License. A pesticide dealer license:

(1) expires on December 31 of each year unless it is suspended or revoked before that date; and

(2) is not transferable to another person.

Subd. 4. Application. (a) A person must apply to the commissioner for a pesticide dealer license on the forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible to sell bulk pesticides or restricted use pesticides.

(b) The commissioner may require an additional demonstration of dealer qualification if the dealer has had a license suspended or revoked, or has otherwise had a history of violations of this chapter.

Subd. 5. Application fee. (a) An application for a pesticide dealer license must be accompanied by a nonrefundable application fee of \$50.

(b) If an application for renewal of a pesticide dealer license is not filed before January 1 of the year for which the license is to be issued, an additional fee of \$20 must be paid by the applicant before the license is issued.

History: 1987 c 358 s 73

18B.32 STRUCTURAL PEST CONTROL LICENSE.

Subdivision 1. Requirement. (a) A person may not engage in structural pest control applications:

(1) for hire without a structural pest control license; and

(2) as a sole proprietorship, company, partnership, or corporation unless the person is or employs a licensed master in structural pest control operations.

(b) A structural pest control licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Subd. 2. Licenses. (a) A structural pest control license:

- (1) expires on December 31 of the year for which the license is issued; and
- (2) is not transferable.

(b) The commissioner shall establish categories of master, journeyman, and fumigator for a person to be licensed under a structural pest control license.

Subd. 3. Application. (a) A person must apply to the commissioner for a structural pest control license to be licensed as a master, journeyman, or fumigator on forms and in the manner required by the commissioner. The commissioner shall require the applicant to pass a written, closed-book, monitored examination or oral examination, or both, and may also require a practical demonstration regarding structural pest control. The commissioner shall establish the examination procedure, including the phases and contents of the examination.

(b) The commissioner may license a person as a master under a structural pest control license if the person has the necessary qualifications through knowledge and experience to properly plan, determine, and supervise the selection and application of pesticides in structural pest control. To demonstrate the qualifications and become licensed as a master, a person must:

- (1) pass closed-book testing administered by the commissioner; and

(2) by direct experience as a licensed journeyman under a structural pest control license for at least two years by this state or a state with equivalent certification requirements or as a full-time licensed master in another state with equivalent certification requirements, show practical knowledge and field experience in the actual selection and application of pesticides under varying conditions.

(c) The commissioner may license a person as a journeyman under a structural pest control license if the person:

- (1) has the necessary qualifications in the practical selection and application of pesticides;

- (2) has passed a closed-book examination given by the commissioner; and

(3) is engaged as an employee of or is working under the direction of a person licensed as a master under a structural pest control license.

(d) The commissioner may license a person as a fumigator under a structural pest control license if the person:

- (1) has knowledge of the practical selection and application of fumigants;

- (2) has passed a closed-book examination given by the commissioner; and

(3) is licensed by the commissioner as a master or journeyman under a structural pest control license.

Subd. 4. Renewal. (a) A structural pest control applicator license may be renewed on or before the expiration of an existing license subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competency and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

(b) If a person fails to renew a structural pest control license within three months of its expiration, the person must obtain a structural pest control license subject to the requirements, procedures, and fees required for an initial license.

Subd. 5. Financial responsibility. (a) A structural pest control license may not be issued unless the applicant furnishes proof of financial responsibility. The financial responsibility may be demonstrated by:

- (1) proof of net assets equal to or greater than \$50,000; or

(2) a performance bond or insurance of a kind and in an amount determined by the commissioner.

- (b) The bond or insurance must cover a period of time at least equal to the term

of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation, termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

(c) An employee of a licensed person is not required to maintain an insurance policy or bond during the time the employer is maintaining the required insurance or bond.

(d) Applications for reinstatement of a license suspended under the provisions of this section must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 6. **Fees.** (a) An applicant for a structural pest control license for a business must pay a nonrefundable application fee of \$100. An employee of a licensed business must pay a nonrefundable application fee of \$50 for an individual structural pest control license.

(b) An application received after expiration of the structural pest control license is subject to a penalty fee of 50 percent of the application fee.

(c) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

History: 1987 c 358 s 74

18B.33 COMMERCIAL APPLICATOR LICENSE.

Subdivision 1. **Requirement.** (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories except a structural pest control applicator.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without an aquatic category endorsement on a commercial applicator license.

(c) A commercial applicator licensee must have a valid license identification card when applying pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

Subd. 2. **Responsibility.** A person required to be licensed under this section who performs pesticide applications for hire or who employs a licensed applicator to perform pesticide application for pro rata compensation is responsible for proper application of the pesticide or device.

Subd. 3. **License.** A commercial applicator license:

(1) expires on December 31 of the year for which it is issued, unless suspended or revoked before that date; and

(2) is not transferable to another person.

Subd. 4. **Application.** (a) A person must apply to the commissioner for a commercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible for the commercial applicator license.

(b) Aerial applicators must also fulfill applicable requirements in chapter 360.

(c) An applicant that desires an aquatic category endorsement must pass an examination prepared by the commissioner of natural resources and administered by the department of agriculture.

Subd. 5. **Renewal application.** (a) A person must apply to the commissioner to renew a commercial applicator license. The commissioner may renew a commercial

applicator license accompanied by the application fee, subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The applicant may renew a commercial applicator license within 12 months after expiration of the license without having to meet initial testing requirements. The commissioner may require additional demonstration of applicator qualification if a person has had a license suspended or revoked or has had a history of violations of this chapter.

(b) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

Subd. 6. Financial responsibility. (a) A commercial applicator license may not be issued unless the applicant furnishes proof of financial responsibility. The financial responsibility may be demonstrated by: (1) proof of net assets equal to or greater than \$50,000; or (2) by a performance bond or insurance of the kind and in an amount determined by the commissioner.

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation, termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

(c) An employee of a licensed person is not required to maintain an insurance policy or bond during the time the employer is maintaining the required insurance or bond.

(d) Applications for reinstatement of a license suspended under the provisions of this section must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 7. Application fees. (a) A person initially applying for or renewing a commercial applicator license as a business entity must pay a nonrefundable application fee of \$50, except a person who is an employee of a business entity that has a commercial applicator license and is applying for or renewing a commercial applicator license as an individual the nonrefundable application fee is \$25.

(b) If a renewal application is not filed before March 1 of the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the commercial applicator license may be issued.

History: 1987 c 358 s 75

18B.34 NONCOMMERCIAL APPLICATOR LICENSE.

Subdivision 1. Requirement. (a) Except for a commercial applicator, private applicator, or structural pest control applicator, a person, including a government employee, may not use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A person with a noncommercial applicator license may not apply pesticides into or on surface waters without an aquatic category endorsement on the license.

(c) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

Subd. 2. License. A noncommercial applicator license:

(1) expires on December 31 of the year for which it is issued unless suspended or revoked before that date; and

(2) is not transferable.

Subd. 3. Application. A person must apply to the commissioner for a noncommercial applicator license on forms and in the manner required by the commissioner. The commissioner must prescribe and administer a closed-book, monitored examination, or equivalent measure to determine if the applicant is eligible to acquire a noncommercial applicator license. An applicant desiring to apply pesticides into or on surface waters must pass an examination prepared by the department of natural resources and administered by the commissioner.

Subd. 4. Renewal. (a) A person must apply to the commissioner to renew a noncommercial applicator license. The commissioner may renew a license subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

(b) An applicant that meets renewal requirements by reexamination instead of attending workshops must pay the equivalent workshop fee for the reexamination as determined by the commissioner.

(c) An applicant has 12 months to renew the license after expiration without having to meet initial testing requirements.

Subd. 5. Fees. (a) A person initially applying for or renewing a noncommercial applicator license as a business entity must pay a nonrefundable application fee of \$50. A person who is an employee of a business entity that has a noncommercial applicator license and is applying for or renewing a noncommercial applicator license as an individual must pay a nonrefundable application fee of \$25, except an applicant who is a government employee who uses pesticides in the course of performing official duties must pay a nonrefundable application fee of \$10.

(b) If an application for renewal of a noncommercial license is not filed before March 1 in the year for which the license is to be issued, an additional penalty fee of \$10 must be paid before the renewal license may be issued.

History: 1987 c 358 s 76

18B.35 APPLICATION CATEGORIES WITHIN APPLICATOR LICENSES.

Subdivision 1. Establishment. (a) The commissioner may establish categories of structural pest control, commercial applicator, and noncommercial applicator licenses for administering and enforcing this chapter. The categories may include pest control operators and ornamental, agricultural, aquatic, forest, and right-of-way pesticide applicators. Separate subclassifications of categories 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.

(b) Each category is subject to separate testing procedures and requirements.

Subd. 2. No additional fee. A person may not be required to pay an additional fee for a category or subclassification of a category of a license.

History: 1987 c 358 s 77

18B.36 PRIVATE APPLICATOR CERTIFICATION.

Subdivision 1. Requirement. (a) Except for a commercial or noncommercial applicator, only a person certified as a private applicator may use or supervise the use of a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation; or

(2) on a site owned, rented, or managed by the person or the person's employees.

(b) A private applicator may not purchase a restricted use pesticide without presenting a private applicator card or the card number.

Subd. 2. Certification. (a) The commissioner shall prescribe certification requirements and provide training to certify persons as private applicators and provide information relating to changing technology to help ensure a continuing level of competency and ability to use pesticides properly and safely. The training may be done through cooperation with other government agencies.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of five years from the applicant's nearest birthday.

(c) The commissioner shall issue a private applicator card to a private applicator.

Subd. 3. Fees. (a) A person applying to be certified as a private applicator must pay a nonrefundable \$10 application fee for the certification period.

(b) A \$5 fee must be paid for the issuance of a duplicate private applicator card.

History: 1987 c 358 s 78

18B.37 RECORDS, REPORTS, PLANS, AND INSPECTIONS.

Subdivision 1. Pesticide dealer. (a) A pesticide dealer must maintain records of all sales of restricted use pesticides as required by the commissioner. Records must be kept on forms supplied by the commissioner or on the pesticide dealer's forms if they are approved by the commissioner.

(b) Records must be submitted annually with the renewal application for a pesticide dealer license or upon request of the commissioner.

(c) Copies of records required under this subdivision must be maintained by the pesticide dealer for a period of five years after the date of the pesticide sale.

Subd. 2. Commercial and noncommercial applicators. (a) A commercial or noncommercial applicator, or the applicator's authorized agent, must maintain a record of pesticides used on each site. The record must include the:

- (1) date of the pesticide use;
- (2) time the pesticide application was completed;
- (3) pesticide and dosage used;
- (4) number of units treated;
- (5) temperature, wind speed, and wind direction;
- (6) location of the site where the pesticide was applied;
- (7) name and address of the customer;
- (8) name, license number, address, and signature of applicator; and
- (9) any other information required by the commissioner.

(b) Portions of records not relevant to a specific type of application may be omitted upon approval from the commissioner.

(c) All information for this record requirement must be contained in a single document for each pesticide application. Invoices containing the required information may constitute the required record.

(d) A commercial applicator must give a copy of the record to the customer when the application is completed.

(e) Records must be retained by the applicator, company, or authorized agent for five years after the date of treatment.

Subd. 3. Structural pest control applicators. (a) A structural pest control applicator must maintain a record of each structural pest control application conducted by that person or by the person's employees. The record must include the:

- (1) date of structural pest control application;
- (2) target pest;
- (3) name of the pesticide used;
- (4) for fumigation, the temperature and exposure time;

- (5) name and address of the customer;
 - (6) structural pest control applicator's company name and address, applicator's signature, and license number; and
 - (7) any other information required by the commissioner.
- (b) Invoices containing the required information may constitute the record.
- (c) Records must be retained for five years after the date of treatment.
- (d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site.

Subd. 4. Storage, handling, and disposal plan. A commercial, noncommercial, or structural pest control applicator or the licensed business that the applicator is employed by must develop and maintain a plan that describes its pesticide storage, handling, and disposal practices. The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request on forms provided by the commissioner. The plan must be available for inspection by the commissioner.

Subd. 5. Inspection of records. The commissioner may enter a commercial, noncommercial, or structural pest control applicator's business and inspect the records required in this section at any reasonable time and may make copies of the records. Unless required for enforcement of this chapter, the information in the records in this section is private or nonpublic.

History: 1987 c 358 s 79

18B.38 PROTECTION OF TRADE SECRETS.

Subdivision 1. Requirements. In submitting data required by this chapter, the applicant may:

- (1) clearly mark any portions that in the applicant's opinion are trade secrets, commercial, or financial information; and
- (2) submit the marked material separately from other material.

Subd. 2. Information revealed. After consideration of the applicant's request submitted under subdivision 1, the commissioner shall not make any information public that in the commissioner's judgment contains or relates to trade secrets or to commercial or financial information obtained from an applicant. When necessary, information relating to formulas of products may be revealed to any state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

Subd. 3. Notification. If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under subdivision 2, the commissioner 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 the information is subject to protection under this section.

History: 1987 c 358 s 80

18B.39 EXISTING RULES.

Rules of the commissioner of agriculture in effect on July 1, 1987, relating to the distribution, use, storage, handling, and disposal of pesticides, rinsates, and pesticide containers remain in effect until they are superseded by new rules. The commissioner may adopt emergency rules to implement Laws 1987, chapter 358, until December 31, 1987.

History: 1987 c 358 s 81