

CHAPTER 103I

WELLS, BORINGS, AND UNDERGROUND USES

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1031.001 LEGISLATIVE INTENT.

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

History: 1989 c 326 art 3 s 1

1031.005 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

Subd. 8. **Environmental bore hole.** "Environmental bore hole" means a hole or excavation in the ground that penetrates a confining layer or is greater than 25 feet in depth and enters or goes through a water bearing layer and is used to monitor or measure physical, chemical, radiological, or biological parameters without extracting water. An environmental bore hole also includes bore holes constructed for vapor recovery or venting systems. An environmental bore hole does not include a well, elevator shaft, exploratory boring, or monitoring well.

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

Subd. 10. **Explorer.** "Explorer" means a person who has the right to drill an exploratory boring.

Subd. 11. **Groundwater thermal exchange device.** "Groundwater thermal exchange device" means a heating or cooling device that depends on extraction and reinjection of groundwater from an independent aquifer to operate.

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

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

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

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

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

Subd. 17. **Provisions of this chapter.** "Provisions of this chapter" means the sections in this chapter and rules adopted by the commissioner under this chapter.

Subd. 18. **Sealed well certificate.** "Sealed well certificate" means the certificate containing information required under section 1031.321.

Subd. 19. [Repealed, 1990 c 597 s 73]

Subd. 20. **Vertical heat exchanger.** "Vertical heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed piping system installed vertically in the ground to transfer heat to or from the surrounding earth.

Subd. 21. **Well.** "Well" means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, or acquisition of groundwater. Well includes monitoring wells, drive point wells, and dewatering wells. "Well" does not include:

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

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

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

- (4) an excavation for nonpotable use for wildfire suppression activities; or
- (5) borings.

Subd. 22. **Well certificate.** "Well certificate" means a certificate containing the requirements of section 1031.235, subdivision 1, paragraph (e).

Subd. 23. **Well contractor.** "Well contractor" means a person with a well contractor's license.

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

History: 1989 c 326 art 3 s 2; 1990 c 597 s 16-20

NOTE: Subdivision 4a, as added by Laws 1990, chapter 597, section 17, is effective May 4, 1990, except that dewatering wells may be constructed and operate down to 45 feet without permit or permit fees required by this chapter until June 30, 1992. See Laws 1990, chapter 597, section 75.

JURISDICTION OVER WELLS AND BORINGS

1031.101 POWERS AND DUTIES OF THE COMMISSIONER OF HEALTH.

Subdivision 1. **Powers of commissioner.** The commissioner has the powers reasonable and necessary to effectively exercise the authority granted by this chapter.

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

- (1) regulate the drilling, construction, and sealing of wells and borings;
- (2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing, and sealing unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;
- (3) register and examine monitoring well contractors;
- (4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;
- (5) after consultation with the commissioner of natural resources and the pollution control agency, establish standards for the design, location, construction, repair, and sealing of wells, elevator shafts, and borings within the state; and
- (6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

Subd. 3. **Procedures for permits.** The commissioner shall establish procedures for application, approval, and issuance of permits by rule.

Subd. 4. **Inspections by commissioner.** The commissioner may inspect, collect water samples, and have access, at all reasonable times, to a well site, including wells drilled, sealed, or repaired.

Subd. 5. **Commissioner to adopt rules.** The commissioner shall adopt rules including:

- (1) issuance of licenses for:
 - (i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;
 - (ii) persons constructing, repairing, and sealing unconventional wells such as drive points or dug wells;
 - (iii) persons constructing, repairing, and sealing dewatering wells;
 - (iv) persons sealing wells; and
 - (v) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;
- (2) issuance of registration for monitoring well contractors;
- (3) establishment of conditions for examination and review of applications for license and registration;

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

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

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

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

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

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

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

(11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for geologic and water resource mapping.

Subd. 6. **Fees for variances.** The commissioner shall charge a nonrefundable application fee of \$100 to cover the administrative cost of processing a request for a variance or modification of rules under Minnesota Rules, chapter 4725, for wells and borings.

History: 1989 c 326 art 3 s 3; 1990 c 597 s 21-23

1031.103 WASTE PREVENTION MAY BE REQUIRED.

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

History: 1989 c 326 art 3 s 4

1031.105 ADVISORY COUNCIL ON WELLS AND BORINGS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: 1989 c 326 art 3 s 5

103I.111 LOCAL AUTHORITY OVER WELLS AND BORINGS.

Subdivision 1. **Delegation of duties of commissioner.** (a) The commissioner of health may enter into an agreement with a board of health to delegate all or part of the inspection, reporting, and enforcement duties authorized under provisions of this chapter pertaining to permitting, construction, repair, and sealing of wells and elevator shafts.

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

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

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

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

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

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

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

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

(h) This section does not alter the responsibility of the delegating authority for the performance of duties specified in law.

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

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

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

Subd. 4. **Local authority over exploratory boring.** This chapter does not limit the

authority of a local unit of government to prohibit mineral exploration within its boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, that are consistent with other law.

Subd. 5. Local government regulation of open wells and recharging basins. (a) The governing body of a county, municipality, statutory or home rule charter city, or town may regulate open wells and recharging basins in a manner not inconsistent with this chapter and rules and may provide penalties for the violations. The use or maintenance of an open well or recharging basin that endangers the safety of a considerable number of persons may be defined as a public nuisance and abated as a public nuisance.

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

Subd. 6. Unsealed wells are public health nuisances. A well that is required to be sealed under section 103I.301 but is not sealed is a public health nuisance. A county may abate the unsealed well with the same authority of a board of health to abate a public health nuisance under section 145A.04, subdivision 8.

Subd. 7. Local license or registration fees prohibited. (a) A political subdivision may not require a licensed well contractor to pay a license or registration fee.

(b) The commissioner of health must provide a political subdivision with a list of licensed well contractors upon request.

Subd. 8. Municipal regulation of drilling. A municipality may regulate all drilling, except well, elevator shaft, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for the drilling.

History: 1989 c 326 art 3 s 6; 1990 c 597 s 24-26

103I.112 FEE EXEMPTIONS FOR STATE AND LOCAL GOVERNMENT.

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

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

History: 1990 c 597 s 27

103I.113 APPLICABILITY TO MINING ACTIVITIES.

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

History: 1989 c 326 art 3 s 7

WELL CONSTRUCTION AND OWNERSHIP

103I.115 COMPLIANCE WITH THIS CHAPTER REQUIRED.

A person may not construct, repair, or seal a well or boring, except as provided under the provisions of this chapter.

History: 1989 c 326 art 3 s 8

103I.205 WELL CONSTRUCTION.

Subdivision 1. Notification required. (a) Except as provided in paragraphs (d) and

(e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 1031.208. If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

(b) The property owner, the property owner's agent, or the well contractor where a well is to be located must file the well notification with the commissioner.

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

(d) A person who is an individual that constructs a drive point well on property owned or leased by the individual for farming or agricultural purposes or as the individual's place of abode must notify the commissioner of the installation and location of the well. The person must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.

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

Subd. 2. Emergency permit and notification exemptions. The commissioner may adopt rules that modify the procedures for filing a well notification or well permit if conditions occur that:

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

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

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

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

Subd. 4. License required. (a) Except as provided in paragraph (b), (c), (d), or (e), a person may not drill, construct, or repair a well unless the person has a well contractor's license in possession.

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

(c) A person may do the following work with a limited well contractor's license in possession. A separate license is required for each of the five activities:

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

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

(3) installing well pumps or pumping equipment;

(4) sealing wells; or

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

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

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

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

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

Subd. 6. Distance requirements for sources of contamination. (a) A person may not place, construct, or install an actual or potential source of contamination any closer to a well than the isolation distances prescribed by the commissioner by rule unless a variance has been prescribed by rule.

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

Subd. 7. Well identification label required. After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number, the depth of the well, the name of the person who constructed the well, and the date the well was constructed.

Subd. 8. Monitoring wells on property of another. A person may not construct a monitoring well on the property of another until the owner of the property on which the well is to be located and the well owner sign a written agreement that identifies which party will be responsible for obtaining maintenance permits and for sealing the monitoring well. If the property owner refuses to sign the agreement, the well owner may, in lieu of a written agreement, state in writing to the commissioner that the well owner will be responsible for obtaining maintenance permits and sealing the well. Nothing in this subdivision eliminates the responsibilities of the property owner under this chapter, or allows a person to construct a well on the property of another without consent or other legal authority.

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

(b) The report must contain:

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

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

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

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

History: 1989 c 326 art 3 s 9; 1990 c 597 s 28-33

103I.208 WELL NOTIFICATION FILING FEES AND PERMIT FEES.

Subdivision 1. **Well notification fee.** The well notification fee to be paid by a property owner is:

- (1) for a new well drilled that produces less than 50 gallons a minute based on the actual capacity of the pump installed, \$50; and
- (2) for a new well that produces 50 gallons a minute or more based on the actual capacity of the pump installed, \$100.

Subd. 2. **Permit fee.** The permit fee to be paid by a property owner is:

- (1) for a well that is inoperable or disconnected from a power supply under a maintenance permit, \$50;
- (2) for construction of a monitoring well, \$50;
- (3) annually for a monitoring well that is unsealed under a maintenance permit, \$50;
- (4) for monitoring wells used as a leak detection device at a single motor fuel retail outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is \$50 per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$50 per site regardless of the number of monitoring wells located on site;
- (5) for a groundwater thermal exchange device, \$50;
- (6) for a vertical heat exchanger, in addition to the permit fee for wells, \$50;
- (7) for construction of the dewatering well, \$50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for \$500; and
- (8) annually for a dewatering well that is unsealed under a maintenance permit, \$25 for each well, except a dewatering project comprising more than ten wells shall be issued a single permit for wells recorded on the permit for \$250.

History: 1989 c 326 art 3 s 10; 1990 c 597 s 34

103I.211 [Repealed, 1990 c 597 s 73]

103I.221 PLASTIC CASINGS.

Subdivision 1. **Plastic casings allowed.** The use of plastic casings in wells is expressly authorized.

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

History: 1989 c 326 art 3 s 12

103I.231 COMMISSIONER MAY ORDER REPAIRS.

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

- (1) is contaminated;
- (2) is required to be sealed under this chapter and has not been sealed according to the rules of the commissioner;
- (3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;
- (4) is a health or safety hazard; or
- (5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.

(b) The order of the commissioner may be enforced in an action to seek compli-

ance brought by the commissioner in the district court of the county where the well is located.

History: 1989 c 326 art 3 s 13

1031.235 SALE OF PROPERTY WHERE WELLS ARE LOCATED.

Subdivision 1. Disclosure of wells to buyer. (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

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

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

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

(d) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance either contains the statement "The Seller certifies that the Seller does not know of any wells on the described real property," or is accompanied by the well certificate required by this subdivision. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well certificate that the well certificate was received. The well certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. The county recorder or registrar of titles shall transmit the well certificate to the commissioner of health within 15 days after receiving the well certificate.

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

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

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

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

Subd. 2. Liability for failure to disclose. Unless the buyer and seller agree to the contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence of a well at the time of sale and knew or had reason to know of the existence of the well, is liable to the buyer for costs relating to sealing of the well and reasonable attorney fees for collection of costs from the seller, if the action is commenced within six years after the date the buyer closed the purchase of the real property where the well is located.

History: 1989 c 326 art 3 s 14; 1990 c 597 s 35

NOTE: This section relating to disclosing wells to buyers and transferees is effective July 1, 1990, on lands other than tax-forfeited lands, and July 1, 1991, on tax-forfeited lands. See Laws 1989, chapter 326, article 3, section 49, as amended by Laws 1990, chapter 604, article 3, section 44.

1031.241 ACTION FOR WELL CONTAMINATION.

Subdivision 1. Owner's cause of action for well contamination. The owner of real property where a well is located has a cause of action for civil damages against a person whose action or inaction caused contamination of a well. The property owner may commence an action for a period of six years after the owner knows or becomes aware of the contamination of the well.

Subd. 2. Court awards. The court may award damages, reasonable attorney fees, and costs and disbursements.

History: 1989 c 326 art 3 s 15

WELL SEALING

1031.301 WELL SEALING REQUIREMENTS.

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

- (1) the well is contaminated;
- (2) the well was attempted to be sealed but was not sealed according to the provisions of this chapter; or
- (3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

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

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

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

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

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

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

Subd. 5. [Repealed, 1990 c 597 s 73]

History: 1989 c 326 art 3 s 16; 1990 c 597 s 36

1031.311 IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.

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

Subd. 2. Plan and appropriation request for well sealing. In each budget year of a biennium, the commissioner must present a plan and an appropriation request to properly seal wells on state property.

Subd. 3. Prohibition on state land purchased without well identification. The state may not purchase or sell real property or an interest in real property without identifying the location of all wells on the property, whether in use, not in use, or sealed, and making provisions to have the wells not in use properly sealed at the cost of the seller as

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

- (1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or
- (2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

History: 1989 c 326 art 3 s 17; 1990 c 597 s 37

103I.315 ORDERS TO SEAL WELLS.

Subdivision 1. **Order to seal well.** The commissioner may order a property owner to seal a well if:

- (1) the commissioner determines that without being sealed the well is an imminent threat to public health or public safety;
- (2) the well is required to be sealed under section 103I.301; or
- (3) a well is a monitoring well or dewatering well and by 14 months after construction of the well, the owner has not obtained a maintenance permit, or after a maintenance permit has been issued the owner has not renewed a maintenance permit.

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

History: 1989 c 326 art 3 s 18

103I.321 [Repealed, 1990 c 597 s 73]

103I.325 LANDOWNER SEALED WELL LIABILITY.

Subdivision 1. [Repealed, 1990 c 597 s 73]

Subd. 2. **Liability after sealing.** The owner of a well is not liable for contamination of groundwater from the well that occurs after the well has been sealed by a licensed contractor in compliance with this chapter if a report of sealing has been filed with the commissioner of health by the contractor who performed the work, and if the owner has not disturbed or disrupted the sealed well.

History: 1989 c 326 art 3 s 20; 1990 c 597 s 38

103I.331 WELL SEALING COST-SHARE PROGRAM.

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

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

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

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

- (1) publish information in newspapers of general circulation, regarding availability of state funds to share the cost of sealing wells; and
- (2) invite the public to report to the county on the existence of wells that are not sealed.

Subd. 2. **Criteria for selecting counties for well sealing.** (a) The board of water and

soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

- (1) diversity of well construction;
- (2) diversity of geologic conditions;
- (3) current use of affected aquifers;
- (4) diversity of land use; and
- (5) aquifer susceptibility to contamination by unsealed wells.

(b) After July 1, 1991, only well sealings that are a part of, or responsive to, the priority actions identified in an approved comprehensive local water plan, as defined in section 103B.3363, subdivision 3, are eligible for assistance.

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

- (1) well construction, depth, and condition;
- (2) importance of an aquifer as public and private water supply source;
- (3) proximity to known or potential point or nonpoint contamination sources;
- (4) current contamination of the well or aquifer;
- (5) susceptibility of an aquifer to contamination by wells that are not sealed;
- (6) limited availability of alternative sources of drinking water;
- (7) anticipated changes in land or water use;
- (8) unique conditions such as construction, rehabilitation, or demolition areas;
- (9) potential use of the well as a monitoring well; and
- (10) the danger to humans and animals of falling into the well.

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

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

(c) A well sealing contract must provide that:

- (1) sealing is done in accordance with this chapter and rules of the commissioner of health relating to sealing of unused wells;
- (2) payment is made to the landowner, after the well is sealed by a contractor licensed under this chapter; and
- (3) the contractor must file a sealed well report and a copy of the well record with the commissioner of health.

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

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

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

History: 1989 c 326 art 3 s 21; 1990 c 597 s 39

103I.335 FUNDING FOR PERSONS TO SEAL WELLS.

Subdivision 1. Application. A property owner who desires to seal a well may apply to the board of water and soil resources for the board to provide funds and seal the well.

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

Subd. 3. **Collection and enforcement of costs.** If the applications are accepted, the costs of sealing become a governmental services lien as provided in section 103I.341. The board of water and soil resources must enter a written agreement to collect the costs of sealing the well in a manner provided under section 103I.341, subdivision 3. If the costs are not paid according to the agreement, the board of water and soil resources may enforce the lien in any manner provided under section 103I.341, subdivisions 2 and 3.

History: 1989 c 326 art 3 s 22

103I.341 COLLECTION AND ENFORCEMENT OF WELL SEALING COSTS.

Subdivision 1. **Lien for sealing costs.** The commissioner and the board of water and soil resources have a governmental services lien under section 514.67 for the costs of sealing a well that the commissioner or board has contracted to be sealed under section 103I.315, subdivision 2; 103I.331; or 103I.335. The lien attaches to the real property where the well is located. The lien is perfected by filing the lien with the county recorder or registrar of titles where the well and property are located and serving or mailing by return receipt a copy of the lien to the property owner.

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

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

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

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

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

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

History: 1989 c 326 art 3 s 23

ELEVATOR SHAFT BORINGS

103I.401 ELEVATOR SHAFT BORINGS.

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

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

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

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

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

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

History: 1989 c 326 art 3 s 24

ENVIRONMENTAL BORE HOLES

1031.451 ENVIRONMENTAL BORE HOLES.

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

History: 1989 c 326 art 3 s 25

LICENSING AND REGISTRATION

1031.501 LICENSING AND REGULATION OF WELLS AND BORINGS.

(a) The commissioner shall regulate and license:

- (1) drilling, constructing, and repair of wells;
- (2) sealing of wells;
- (3) installing of well pumps and pumping equipment;
- (4) excavating, drilling, and sealing of holes for the installation of elevator shafts and hydraulic cylinders; and
- (5) construction and sealing of environmental bore holes.

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

(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring.

History: 1989 c 326 art 3 s 26

1031.505 RECIPROCITY OF LICENSES.

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

- (1) the requirements for licensing or registration under which the well contractor was licensed or registered do not conflict with this chapter;
- (2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and
- (3) equal reciprocal privileges are granted to licensees of this state.

Subd. 2. **License fee required.** A well contractor must apply for the license and pay the fees under the provisions of this chapter to receive a license under this section.

History: 1989 c 326 art 3 s 27

1031.515 LICENSES NOT TRANSFERABLE.

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

History: 1989 c 326 art 3 s 28

1031.521 FEES DEPOSITED WITH STATE TREASURER.

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

History: 1989 c 326 art 3 s 29

1031.525 WELL CONTRACTOR'S LICENSE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 9. Late renewal application. If a licensee submits a renewal application after the required renewal date:

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

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

History: 1989 c 326 art 3 s 30; 1990 c 597 s 40-42

1031.531 LIMITED WELL CONTRACTOR'S LICENSE.

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

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

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

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

Subd. 4. **Issuance of license.** If an applicant passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well contractor's license. If the other conditions of this section are satisfied, the commissioner may not withhold issuance of a dewatering limited license based on the applicant's lack of prior experience under a licensed well contractor.

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

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

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

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

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

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

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

Subd. 9. **Late renewal application.** If a licensee submits a renewal application after the required renewal date:

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

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

History: 1989 c 326 art 3 s 31; 1990 c 597 s 43

1031.533 [Repealed, 1990 c 597 s 73]**1031.535 ELEVATOR SHAFT CONTRACTOR'S LICENSE.**

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 9. **Late renewal application.** If a licensee submits a renewal application after the required renewal date:

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

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

History: 1989 c 326 art 3 s 33

1031.541 MONITORING WELL CONTRACTORS.

Subdivision 1. **Initial registration after July 1, 1990.** After July 1, 1990, a person seeking initial registration as a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.

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

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

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

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

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

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

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

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

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

Subd. 5. Late renewal application. If a registered person submits a renewal application after the required renewal date:

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

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

History: 1989 c 326 art 3 s 34; 1990 c 597 s 44-46

103I.545 REGISTRATION OF DRILLING MACHINES REQUIRED.

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

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

(c) A registration is valid for one year.

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

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

(c) A registration is valid for one year.

History: 1989 c 326 art 3 s 35

EXPLORATORY BORINGS

103I.601 EXPLORATORY BORING PROCEDURES.

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

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

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

(d) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer.

Subd. 2. License required to make borings. (a) Except as provided in paragraph (b), a person may not make an exploratory boring without an exploratory borer's license.

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

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

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

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

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

(c) An explorer shall annually register with the commissioner of natural resources while conducting exploratory boring.

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

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

Subd. 6. Emergency notification. The explorer must promptly notify the commissioners of health, natural resources, and the pollution control agency, and the authorized agent of the commissioner of health of an occurrence during exploratory boring that has a potential for significant adverse health or environmental effects. The explorer must take reasonable action to minimize the adverse effects.

Subd. 7. Inspection of data before submission. The commissioner of health may, if necessary, inspect data before its submission under section 103I.605. The data examined by the commissioner is not public data before it is submitted under section 103I.605.

Subd. 8. Permanent and temporary sealing procedures. Exploratory borings must be temporarily or permanently sealed according to rules adopted by the commissioner.

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

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

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

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

(3) identification of water bearing formations encountered;

(4) identification of hydrologic conditions encountered;

(5) method of sealing used;

(6) methods of construction and drilling used; and

(7) average scintillometer reading of waste drill cuttings before backfilling of the recirculation pits.

History: 1989 c 326 art 3 s 36

103I.605 SUBMISSION OF DATA FROM EXPLORATORY BORINGS.

Subdivision 1. Requirement. Data obtained from exploratory borings must be submitted by the explorer to the commissioner of natural resources as provided in this section.

Subd. 2. Mineral deposit evaluation data. (a) In applying for a permit required for activities relating to mineral deposit evaluation, which means examining an area to

determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities, but does not include activities intended, by themselves, for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data that, if released, would impair the competitive position of the explorer submitting the data. Data identified must be considered to be not public data.

(b) If requested to disclose the data, the commissioner shall mail notice of the request to the explorer and determine whether release of the data would impair the competitive position of the explorer submitting the data. If the commissioner determines that release of the data would impair the competitive position of the explorer submitting the data, the commissioner may not release the data to a person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data.

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

(d) Any person aggrieved by the decision of the commissioner may appeal the decision according to chapter 14.

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

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

Subd. 5. Designation of samples to be submitted. The commissioner of natural resources shall designate the samples to be submitted, and specify where the sample is to be delivered. If an explorer requires certain samples in their entirety, the commissioner of natural resources may waive the requirement for a one-fourth portion of the samples. Samples submitted are property of the state.

History: 1989 c 326 art 3 s 37

GROUNDWATER THERMAL EXCHANGE DEVICES

103I.621 PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.

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

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

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

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

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

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

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

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

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

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

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

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

History: 1989 c 326 art 3 s 38

VERTICAL HEAT EXCHANGERS

1031.641 VERTICAL HEAT EXCHANGERS.

Subdivision 1. **Requirements.** A person may not drill or construct an excavation used to install a vertical heat exchanger unless the person is a well contractor.

Subd. 2. **Regulations for vertical heat exchangers.** Vertical heat exchangers must be constructed, maintained, and sealed under the provisions of this chapter.

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

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

History: 1989 c 326 art 3 s 39

UNDERGROUND SPACE DEVELOPMENT

1031.661 MINED UNDERGROUND SPACE DEVELOPMENT.

Subdivision 1. **Commissioner of natural resources review.** The commissioners of natural resources and health shall review all project plans that involve dewatering of underground formations for construction and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed.

Subd. 2. **Permit for water removal.** A mined underground space project involving or affecting the quality and quantity of groundwater may not be developed until a water use permit for the appropriation of waters under chapter 103G has been issued by the commissioner of natural resources.

History: 1989 c 326 art 3 s 40

UNDERGROUND STORAGE OF GAS OR LIQUID

103I.681 PERMIT FOR UNDERGROUND STORAGE OF GAS OR LIQUID.

Subdivision 1. **Permit required.** (a) The state, a person, partnership, association, private or public corporation, county, municipality, or other political subdivision of the state may not displace groundwater in consolidated or unconsolidated formations by the underground storage of a gas or liquid under pressure without an underground storage permit from the commissioner of natural resources.

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

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

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

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

Subd. 3. **Hearing required.** (a) An underground storage permit allowing displacement of groundwater may not be issued by the commissioner of natural resources without holding a public hearing on the issuance of the permit.

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

Subd. 4. **Notice of hearing.** The hearing notice must:

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

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

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

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

Subd. 5. **Procedure at hearing.** (a) The hearing must be public and conducted by the commissioner of natural resources or a referee appointed by the commissioner.

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

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

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

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

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

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

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

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

(1) private property or an interest not appropriated;

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

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

Subd. 9. **Publication of findings, conclusions, orders.** (a) The commissioner of natural resources shall mail notice of any findings, conclusions, and orders made after the hearing to:

(1) the applicant;

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

(3) the county auditor; and

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

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

Subd. 10. **Appeal of commissioner's determination.** An interested party may appeal the determination of the commissioner of natural resources to the court of appeals in accordance with the provisions of chapter 14.

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

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

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

History: 1989 c 326 art 3 s 41; 1990 c 597 s 47

103I.685 ABANDONMENT OF UNDERGROUND STORAGE PROJECT.

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

History: 1989 c 326 art 3 s 42; 1990 c 597 s 48

103I.691 CERTIFICATE OF USE.

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

History: 1989 c 326 art 3 s 43; 1990 c 597 s 49

ENFORCEMENT**103I.701 ADMINISTRATIVE REMEDIES.**

Subdivision 1. Denial of license or registration renewal. (a) The commissioner may deny an application for renewal of a license or registration if the applicant has violated a provision of this chapter.

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

Subd. 2. Suspension, revocation of license or registration. (a) A license or registration issued under this chapter may be suspended or revoked for violation of provisions of this chapter.

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

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

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

History: 1989 c 326 art 3 s 44

103I.705 ADMINISTRATIVE PENALTIES.

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

Subd. 2. Sealing wells and elevator shafts. A well contractor or limited well sealing contractor who seals a well, a monitoring well contractor who seals a monitoring well, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with rules adopted under this chapter, shall be assessed an administrative penalty of \$500.

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

Subd. 4. Well construction and machinery. A well contractor, limited well contrac-

tor, or monitoring well contractor working under a corrective order shall be assessed an administrative penalty of \$250 if the contractor fails as required in the order:

- (1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;
- (2) to have a permit before a well is constructed;
- (3) to register a drilling rig or pump rig or to display the state decal and the registration number on the machine; or
- (4) to comply with the rules in the water well construction code relating to disinfection of wells and submission of well construction or well sealing logs and water samples.

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

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

Subd. 6. **Failure to seal well or have construction permit.** A person under a corrective order shall be assessed an administrative penalty of \$250 if the person:

- (1) employs a well contractor on the person's property and fails to obtain a permit for construction of the well; or
- (2) fails to have a well sealed in accordance with the rules.

History: 1989 c 326 art 3 s 45; 1990 c 597 s 50,51

103I.711 IMPOUNDING OF EQUIPMENT.

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

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

History: 1989 c 326 art 3 s 46

103I.715 CRIMINAL PENALTIES.

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

Subd. 2. **Gross misdemeanors.** A person is guilty of a gross misdemeanor who:

- (1) willfully violates a provision of this chapter or order of the commissioner;
- (2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator shafts without a license required by this chapter; or
- (3) engages in the business of exploratory boring without an exploratory borer's license under this chapter.

Subd. 3. **Prosecution and venue.** A violation of this chapter shall be prosecuted by the county attorney in the county where the violation occurred or is occurring. The trial shall be held in that county.

History: 1989 c 326 art 3 s 47