

## CHAPTER 18B

### PESTICIDE CONTROL

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#### 18B.01 DEFINITIONS.

*[For text of subds 1 to 9, see M.S.1992]*

**Subd. 9a. Fixed location.** “Fixed location” means all stationary restricted and bulk pesticide facility operations owned or operated by a person located in the same plant location or locality.

*[For text of subds 10 to 30, see M.S.1992]*

**Subd. 30a. Substantially altering; substantially alter; substantial alteration.** “Substantially altering,” “substantially alter,” or “substantial alteration” means modifying a bulk agricultural chemical storage facility by:

- (1) changing the capacity of a safeguard;
- (2) adding storage containers in excess of the capacity of a safeguard as required by rule; or
- (3) increasing the size of the single largest storage container in a safeguard as approved or permitted by the department of agriculture. This does not include routine maintenance of safeguards, storage containers, appurtenances, piping, mixing, blending, weighing, or handling equipment.

*[For text of subds 31 to 32, see M.S.1992]*

**History:** 1993 c 367 s 1,2

#### 18B.05 PESTICIDE REGULATORY ACCOUNT.

*[For text of subd 1, see M.S.1992]*

**Subd. 2. Expenditures.** Subject to appropriation by the legislature, money in the account, including the amount of interest attributable to money in the account and any money appropriated for the purposes of this chapter, may be used by the commissioner for the administration and enforcement of this chapter.

**History:** 1993 c 172 s 23

#### 18B.065 WASTE PESTICIDE COLLECTION PROGRAM.

*[For text of subds 1 and 2, see M.S.1992]*

**Subd. 2a. Disposal site requirement.** The commissioner must designate a place that is available at least every other year for the residents of each county in the state to dispose of unused portions of pesticides.

*[For text of subds 3 to 7, see M.S.1992]*

**History:** 1993 c 367 s 3

**18B.135 SALE OF PESTICIDES IN RETURNABLE CONTAINERS AND MANAGEMENT OF UNUSED PORTIONS.**

Subdivision 1. **Acceptance of pesticide containers.** (a) A person distributing, offering for sale, or selling a pesticide must accept empty pesticide containers from a pesticide end user if:

(1) the pesticide was purchased after July 1, 1994;

(2) the empty container is prepared for disposal in accordance with label instructions and is returned to the place of purchase within the state; and

(3) a collection site that is seasonably accessible on multiple days has not been designated either by the county board or by agreement with other counties for the public to return empty pesticide containers for the purpose of reuse or recycling or following other approved management practices for pesticide containers in the order of preference established in section 115A.02, paragraph (b), and the county or counties have notified the commissioner of their intentions annually by February 1, in writing, to manage the empty pesticide containers.

(b) This subdivision does not prohibit the use of refillable and reusable pesticide containers.

(c) If a county or counties designate a collection site as provided in paragraph (a), clause (3), a person who has been notified by the county or counties of the designated collection site and who sells pesticides to a pesticide end user must notify purchasers of pesticides at the time of sale of the date and location designated for disposal of empty containers.

(d) For purposes of this section, pesticide containers do not include containers that have held sanitizers and disinfectants, pesticides labeled primarily for use on humans or pets, or pesticides not requiring dilution or mixing.

*[For text of subd 2, see M.S.1992]*

**History:** 1993 c 367 s 4

**18B.14 PESTICIDE STORAGE.**

*[For text of subd 1, see M.S.1992]*

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

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

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

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

(e) An application to substantially alter a facility must be accompanied by a \$50

fee. An application for a facility that includes both fertilizers regulated under chapter 18C and bulk pesticides regulated under this chapter shall pay only one application fee of \$50.

(f) An additional fee of \$250 must be paid by a person who begins construction of or substantially alters a bulk agricultural chemical storage facility before a permit is issued by the commissioner, except that the \$250 additional fee may not be assessed if the person submits a permit application with the required fee to the commissioner before completing the construction or substantial alteration.

**History:** 1993 c 367 s 5

### 18B.26 PESTICIDE REGISTRATION.

**Subdivision 1. Requirement.** (a) 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.

(b) 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.

(c) An unregistered pesticide that was previously registered with the commissioner may be used for a period of two years following the cancellation of the registration of the pesticide, unless the commissioner determines that the continued use of the pesticide would cause unreasonable adverse effects on the environment, or with the written permission of the commissioner. To use the unregistered pesticide at any time after the two-year period, the pesticide end user must demonstrate to the satisfaction of the commissioner, if requested, that the pesticide has been continuously registered under a different brand name or by a different manufacturer and has similar composition, or, the pesticide end user obtains the written permission of the commissioner.

(d) Each pesticide with a unique United States Environmental Protection Agency pesticide registration number or a unique brand name must be registered with the commissioner.

*[For text of subd 2, see M.S.1992]*

**Subd. 3. Application fee.** (a) A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for calendar year 1990, at one-fifth of one percent for calendar year 1991, and at two-fifths of one percent for calendar year 1992 and thereafter of annual gross sales within the state and annual gross sales of pesticides used in the state, with a minimum nonrefundable fee of \$250. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the application fee in this paragraph if the registrant properly documents the sale location and distributors. A registrant paying more than the minimum fee shall pay the balance due by March 1 based on the gross sales of the pesticide by the registrant for the preceding calendar year. The fee for disinfectants and sanitizers shall be the minimum. The minimum fee is due by December 31 preceding the year for which the application for registration is made. Of the amount collected after calendar year 1990, at least \$600,000 per fiscal year must be credited to the waste pesticide account under section 18B.065, subdivision 5.

(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) A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed by March 1 for the previous year's registration. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

*[For text of subds 4 to 6, see M.S.1992]*

**History:** 1993 c 226 s 15; 1993 c 367 s 6,7

### **18B.31 PESTICIDE DEALER LICENSE.**

Subdivision 1. **Requirement.** (a) Except as provided in paragraph (b), no individual may offer for sale or sell a restricted use or bulk pesticide to a pesticide end user from any fixed location without a pesticide dealer license.

(b) A pesticide dealer license is not required for:

(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 person at a fixed location that is not used to offer for sale or sell restricted use or bulk pesticides including, but not limited to, warehouses or other storage sites.

(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.

(d) A pesticide dealer license is required for an individual not located in Minnesota who offers for sale or sells a restricted use or bulk pesticide to a pesticide end user located in Minnesota.

(e) Only one pesticide dealer license is required per fixed location from which an individual offers for sale or sells a restricted use or bulk pesticide to an end user.

*[For text of subds 2 to 5, see M.S.1992]*

**History:** 1993 c 367 s 8

### **18B.32 STRUCTURAL OR AQUATIC PEST CONTROL LICENSE.**

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

(1) for hire without a structural pest control license or, for an aquatic pest control application, an aquatic 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 or, for an aquatic pest control application, a commercial aquatic applicator.

(b) A structural or aquatic 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 or aquatic pest control license:

(1) expires on December 31 of the year for which the license is issued;

(2) is not transferable; and

(3) must be prominently displayed to the public in the structural or aquatic pest controller's place of business.

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

**Subd. 3. Application.** (a) A person must apply to the commissioner for a structural or aquatic pest control license 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 or aquatic 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 or, for aquatic pest control applications, as a commercial aquatic applicator 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 or aquatic pest control. To demonstrate the qualifications and become licensed as a master under a structural pest control license or, for aquatic pest control applications, as a commercial aquatic applicator, a person must:

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

(2) have direct experience as a licensed journeyman under a structural pest control license or, for aquatic pest control applications, by direct experience as a certified aquatic applicator under a commercial aquatic applicator 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 or, for aquatic pest control applications, have at least 1,600 hours of qualifying experience in the previous four years as determined by the commissioner; and

(3) show practical knowledge and field experience under clause (2) 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 or, for aquatic pest control applications, as a certified aquatic applicator 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 or, for aquatic pest control applications, under a commercial aquatic applicator.

(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.

(e) The licensing requirements of paragraph (b) for commercial aquatic applicators are satisfied if a person: (1) has at least two years direct experience with an aquatic category endorsement on a commercial applicator license; (2) can show practical knowledge and field experience in the actual selection and application of aquatic pesticides under varying conditions; and (3) applies for a license as a commercial aquatic applicator before August 1, 1994.

**Subd. 4. Renewal.** (a) A structural or aquatic 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 or aquatic pest control license within three months of its expiration, the person must obtain a structural or aquatic pest control license subject to the requirements, procedures, and fees required for an initial license.

Subd. 5. **Financial responsibility.** (a) A structural or aquatic 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 or aquatic 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 or aquatic pest control license.

(b) An application received after expiration of the structural pest control license or aquatic 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:** 1993 c 283 s 1

### **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 or a structural pest control license or commercial aquatic pest control license.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without a commercial aquatic pest control license under section 18B.32, except a commercial aquatic pest control license is not required for licensed commercial applicators applying pesticides for the purposes of:

- (1) pest control on cultivated wild rice;
- (2) mosquito and black fly control operations;
- (3) pest control on rights-of-way;
- (4) aerial pest control operations for emergent vegetation control;
- (5) aerial application of piscicides; and

(6) pest control for silvicultural operations.

(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.

*[For text of subds 2 and 3, see M.S.1992]*

**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.

*[For text of subds 5 to 7, see M.S.1992]*

**History:** 1993 c 283 s 2,3

#### 18B.34 NONCOMMERCIAL APPLICATOR LICENSE.

**Subdivision 1. Requirement.** (a) Except for a licensed commercial applicator, certified private applicator, a licensed aquatic pest control applicator, or licensed 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 licensed noncommercial applicator may not apply pesticides into or on surface waters without a certified aquatic pest control license, except a certified aquatic pest control license is not required for licensed noncommercial applicators applying pesticides for the purposes of:

- (1) mosquito and black fly control operations;
- (2) pest control on rights-of-way;
- (3) pest control operations for purple loosestrife control;
- (4) application of piscicides; and
- (5) pest control for silvicultural operations.

(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.

*[For text of subd 2, see M.S.1992]*

**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.

*[For text of subds 4 and 5, see M.S.1992]*

**History:** 1993 c 283 s 4,5

#### 18B.36 PRIVATE APPLICATOR CERTIFICATION.

*[For text of subd 1, see M.S.1992]*

**Subd. 2. Certification.** (a) The commissioner shall prescribe certification requirements and provide training that meets or exceeds United States Environmental Protection Agency standards to certify 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 and must be a minimum of three hours in duration.

(b) A person must apply to the commissioner for certification as a private applicator. After completing the certification requirements, which must include an examination as determined by the commissioner, an applicant must be certified as a private applicator to use restricted use pesticides. The certification is for a period of three calendar years including the first year of certification, and expires December 31 of the third year.

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

*[For text of subd 3, see M.S.1992]*

**History:** 1993 c 367 s 9

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

*[For text of subd 1, see M.S.1992]*

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

- (1) date of the pesticide use;
- (2) time the pesticide application was completed;
- (3) brand name of the pesticide, the United States Environmental Protection Agency registration number, 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 and signature of applicator, name of company, license number of applicator, and address of applicator company; 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 page document for each pesticide application, except a map may be attached to identify treated areas. For the rights-of-way and wood preservative categories, the required record may not exceed five pages. An invoice containing the required information may constitute the required record. The commissioner shall make sample forms available to meet the requirements of this paragraph.

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

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

*[For text of subds 3 to 5, see M.S.1992]*

**History:** 1993 c 367 s 10