

CHAPTER 18B

PESTICIDE CONTROL

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18B 01 DEFINITIONS

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

Subd 2 **Approved agency** ‘Approved agency’ means a state agency, other than the department of agriculture, or an agency of a county, municipality, or other political subdivision that has signed a joint powers agreement under section 471 59 with the commissioner

Subd 3 **Beneficial insects** ‘Beneficial insects’ means insects that are (1) effective pollinators of plants, (2) parasites or predators of pests, or (3) otherwise beneficial

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

Subd 4a **Collection site** ‘Collection site’ means a permanent or temporary designated location with scheduled hours for authorized collection where pesticide end users may bring their waste pesticides

Subd 5 **Commercial applicator** ‘Commercial applicator’ means a person who has or is required to have a commercial applicator license

Subd 6 **Commissioner** ‘Commissioner’ means the commissioner of agriculture or an agent authorized by the commissioner

Subd 6a **Container** ‘Container’ means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled

Subd 6b **Corrective action** ‘Corrective action’ means an action taken to minimize, eliminate, or clean up an incident

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

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

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

Subd 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

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

Subd 10a **Genetic engineering** "Genetic engineering" means the modification of the genetic composition of an organism using molecular techniques. This does not include selective breeding, hybridization, or nondirected mutagenesis

Subd 10b **Genetically engineered pesticide** "Genetically engineered pesticide" means an organism that has been modified through the use of genetic engineering, intended to prevent, destroy, repel, or mitigate a pest, and an organism that has been modified through the use of genetic engineering, intended for use as a plant regulator, defoliant, or desiccant

Subd 11 **Hazardous waste** "Hazardous waste" means any substance identified or listed as hazardous waste in the rules adopted under section 116 07, subdivision 4

Subd 12 **Incident** "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, leak, spill, emission discharge, escape, disposal, or other event that releases or immediately threatens to release a pesticide accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. "Incident" does not include a release from normal use of a pesticide or practice in accordance with law

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

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

(1) accompanying the pesticide or device,

(2) referred to by the label or literature accompanying the pesticide or device, or

(3) that relates or refers to the pesticide or to induce the sale of the pesticide or device

'Labeling' does not include current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, United States Department of Interior, United States Department of Health, Education and Welfare, state agricultural experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides

Subd 14a **Local unit of government** "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, another special purpose district, and local or regional board

Subd 15 **Noncommercial applicator** "Noncommercial applicator" means a person who has or is required to have a noncommercial applicator license

Subd 15a **Organism** "Organism" means an animal, plant, bacterium, cyanobacterium, fungus, protist, or virus

Subd 15b **Owner of real property** 'Owner of real property' means a person who is in possession of, has the right of control, or controls the use of real property, including a person who has legal title to property and a person who has the right to use or contract use of the property under a lease, contract for deed, or license

Subd 16 [Repealed, 1996 c 310 s 1]

Subd 17 **Pest** "Pest" means an insect, rodent, nematode, fungus, weed, terrestrial or aquatic plant, animal life, virus, bacteria, or other organism designated by rule as a

pest, except a virus, bacteria, or other microorganism on or in living humans or other living animals

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

Subd 19 **Pesticide dealer** "Pesticide dealer" means a person who has or is required to have a pesticide dealer license

Subd 19a **Pesticide end user** "Pesticide end user" means a farmer or other person who uses, intends to use, or owns a pesticide. Pesticide end user does not include a dealer, manufacturer, formulator, or packager

Subd 20 **Plant regulator** "Plant regulator" means a substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or rate of maturation of a plant, or to otherwise alter the behavior of ornamental or crop plants or the produce of the plants. Plant regulator does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments

Subd 21 **Private applicator** "Private applicator" means a person certified or required to be certified to use restricted use pesticides

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

Subd 22a **Release** "Release" means the placement or use of a genetically engineered organism outside a contained laboratory, greenhouse, building, structure, or other similar facility or under other conditions not specifically determined by the commissioner to be adequately contained

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

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

Subd 24a **Returnable container** "Returnable container" means a container for distributing pesticides that enables the unused pesticide product to be returned to the distributor, manufacturer, or packager, and includes bulk, mini bulk, or dedicated containers designed to protect the integrity of the pesticide and prevent contamination through the introduction of unauthorized materials

Subd 25 **Rinsate** "Rinsate" means a dilute mixture of a pesticide or pesticides with water, solvents, oils, commercial rinsing agents, or other substances, that is produced by or results from the cleaning of pesticide application equipment or pesticide containers

Subd 26 **Safeguard** "Safeguard" means a facility, equipment, device, or system, or a combination of these, designed to prevent an incident as required by rule

Subd 27 **Site** "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances, and machinery whether fixed or mobile, including anything used for transportation

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

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

Subd 30 **Structural pest control applicator** "Structural pest control applicator" means a person who has or is required to have a structural pest control applicator license

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

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

Subd 31a **Waste pesticide** "Waste pesticide" means a pesticide that the pesticide end user considers a waste A waste pesticide can be a canceled pesticide, an unusable pesticide, or a usable pesticide

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

History 1987 c 358 s 43, 1989 c 326 art 5 s 1 15, 1991 c 250 s 6 9, 1993 c 367 s 1,2

18B 02 PREEMPTION OF LOCAL LAW

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

History 1987 c 358 s 44

18B 03 POWERS AND DUTIES OF COMMISSIONER

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

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

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

History 1987 c 358 s 45

18B 04 PESTICIDE IMPACT ON ENVIRONMENT

The commissioner shall

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

History 1987 c 358 s 46, 1989 c 326 art 5 s 16

18B 045 PESTICIDE MANAGEMENT PLAN

Subdivision 1 Development The commissioner shall develop a pesticide management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in groundwaters and surface waters of the state. The pesticide management plan must include components promoting prevention, developing appropriate responses to the detection of pesticides or pesticide breakdown products in groundwater and surface waters, and providing responses to reduce or eliminate continued pesticide movement to groundwater and surface water. By September 1 of each even-numbered year, the commissioner must submit a status report on the plan to the environmental quality board for review and then to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture.

Subd 2 Coordination The pesticide management plan shall be coordinated and developed with other state agency plans and with other state agencies through the environmental quality board. In addition, the University of Minnesota extension service, farm organizations, farmers, environmental organizations, and industry shall be involved in the pesticide management plan development.

History 1989 c 326 art 5 s 17, 1994 c 557 s 8, 1999 c 86 art 3 s 5

18B 05 PESTICIDE REGULATORY ACCOUNT

Subdivision 1 Establishment A pesticide regulatory account is established in the agricultural fund. Fees and penalties collected under this chapter must be deposited in the agricultural fund and credited to the pesticide regulatory account. Money in the account, including interest, is appropriated to the commissioner for the administration and enforcement of this chapter.

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 1987 c 358 s 47, 1991 c 199 art 2 s 4, 1993 c 172 s 23, 1999 c 231 s 38

18B 06 RULES

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

Subd 2 Conformity with FIFRA Rules adopted under this chapter

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

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

History 1987 c 358 s 48, 1995 c 233 art 2 s 56

18B 063 STATE USES OF PESTICIDES AND NUTRIENTS

The state shall use integrated pest management techniques in its management of public lands, including roadside rights-of-way, parks, and forests, and shall use planting regimes that minimize the need for pesticides and added nutrients.

History 1989 c 326 art 5 s 18

18B 064 PESTICIDE USE INFORMATION

The commissioner shall monitor urban and rural pesticide use on a biennial basis. Information shall be collected and automated consistent with section 103B 151, subdivision 1.

History 1989 c 326 art 5 s 19, 1990 c 391 art 10 s 3

18B 065 WASTE PESTICIDE COLLECTION PROGRAM

Subdivision 1 Collection and disposal The commissioner of agriculture shall establish and operate a program to collect waste pesticides. The program shall be made available to pesticide end users whose waste generating activity occurs in this state.

Subd 2 Implementation (a) The commissioner may obtain a United States Environmental Protection Agency hazardous waste identification number to manage the waste pesticides collected.

(b) The commissioner may limit the type and quantity of waste pesticides accepted for collection and may assess pesticide end users for portions of the costs incurred.

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.

Subd 3 Information and education The commissioner shall provide informational and educational materials regarding waste pesticides and the proper management of waste pesticides to the public.

Subd 4 Consultation with pollution control agency The commissioner shall develop the program in this section in consultation and cooperation with the pollution control agency.

Subd 5 Waste pesticide collection account A waste pesticide account is established in the state treasury. Assessments collected under subdivision 2 shall be deposited in the state treasury and credited to the waste pesticide account. Money in the account is appropriated to the commissioner to pay for costs incurred to implement the waste pesticide collection program.

Subd 6 [Repealed, 1996 c 310 s 1]

Subd 7 Cooperative agreements The commissioner may enter into cooperative agreements with state agencies and local units of government for administration of the waste pesticide collection program.

History 1989 c 326 art 5 s 20, 1993 c 367 s 3

18B 07 PESTICIDE USE, APPLICATION, AND EQUIPMENT CLEANING

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

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

- (1) that is inconsistent with a label or labeling as defined by FIFRA,
- (2) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife, or
- (3) that will cause unreasonable adverse effects on the environment.

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

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

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

Subd 3 **Posting** Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. The posting must be done in accordance with labeling and rules adopted under this chapter.

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

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

Subd 6 **Use of public waters for filling equipment** (a) A person may not fill pesticide application equipment directly from public or other waters of the state, as defined in section 103G.005, subdivision 15, unless the equipment contains proper and functioning anti-backsiphoning mechanisms. The person may not introduce pesticides into the application equipment until after filling the equipment from the public waters.

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

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

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

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

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

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

History 1987 c 358 s 49, 1989 c 326 art 5 s 21 24, 1990 c 391 art 8 s 4, 1994 c 482 s 1, 1994 c 619 s 4, 1995 c 95 s 1

18B 08 CHEMIGATION

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

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

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

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

(1) the irrigation system pump or water source discharge and the point of pesticide injection, and

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

Subd 4 **Application fee** A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50. A person who holds a fertilizer chemigation permit under section 18C 205, is exempt from the fee in this subdivision.

Subd 5 [Repealed, 1996 c 310 s 1]

History 1987 c 358 s 50, 1989 c 326 art 5 s 25 27

18B 09 PESTICIDE APPLICATION IN CITIES

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

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

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

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

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

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

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

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

History 1987 c 358 s 51

18B 10 ACTION TO PREVENT GROUND WATER CONTAMINATION

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

History 1987 c 358 s 52

18B 11 SALE OR USE OF TCDD

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

History 1987 c 358 s 53

18B 115 SALE OR USE OF CHLORDANE OR HEPTACHLOR

The state, a state agency, a political subdivision of the state, a person, or other legal entity may not sell, use, or apply the pesticide chlordane or its derivative heptachlor within the state.

History 1989 c 326 art 5 s 28

18B 12 SALE AND DISTRIBUTION OF ADULTERATED PESTICIDES

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

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

(2) a constituent entirely or partially substituted, or

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

History 1987 c 358 s 54

18B 13 SALE AND DISTRIBUTION OF MISBRANDED PESTICIDES AND DEVICES

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

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

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

History 1987 c 358 s 55

18B 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 person does not participate in a designated collection program for pesticide containers 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, the agricultural chemical dealer(s) in their respective counties, or the commissioner 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) 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, containers made of metal or paper, plastic bags, bag m-a-box, water soluble bags, and aerosol packaging, pesticides labeled primarily for use on humans or pets, or pesticides not requiring dilution or mixing

Subd 2 **Rules** The commissioner may adopt rules to implement this section, including procedures and standards prescribing the exemption of certain pesticide products and pesticide containers

History 1989 c 326 art 5 s 29, 1993 c 367 s 4, 1994 c 557 s 9

18B 14 PESTICIDE STORAGE

Subdivision 1 **Display and storage** (a) A person may store or display pesticides and their containers only in the original container and separated from food, feed, seed,

livestock remedies, drugs, plants, and other products or materials stored, displayed, or offered for sale in a manner that prevents contamination which would cause injury or damage to the other products or materials

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

Subd 2 **Bulk pesticide storage** (a) A person storing pesticides in containers of a rated capacity of 500 gallons or more 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 1987 c 358 s 56, 1990 c 597 s 1, 1993 c 367 s 5

18B 15 [Repealed, 1989 c 326 art 5 s 53]

18B 16 [Repealed, 1989 c 326 art 5 s 53]

18B 17 COOPERATIVE INSPECTION AND ENFORCEMENT AGREEMENTS

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

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

History 1987 c 358 s 59

18B 18 [Repealed, 1989 c 326 art 5 s 53]

18B 19 [Repealed, 1989 c 326 art 5 s 53]

18B 20 [Repealed, 1989 c 326 art 5 s 53]

18B 21 [Repealed, 1989 c 326 art 5 s 53]

18B 22 [Repealed, 1989 c 326 art 5 s 53]

18B 23 [Repealed, 1989 c 326 art 5 s 53]

18B 24 UNSATISFIED JUDGMENTS

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

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

History 1987 c 358 s 66

18B 25 [Repealed, 1989 c 326 art 5 s 53]

18B 26 PESTICIDE REGISTRATION

Subdivision 1 **Requirement** (a) Except as provided in paragraphs (b) to (d), 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) The commissioner may allow specific pesticide products that are not registered with the commissioner to be distributed in this state for use in another state

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

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

(1) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant,

(2) the brand name of the pesticide,

(3) other necessary information required by the registration application form,

(4) a true and complete copy of the labeling accompanying the pesticide as provided for in FIFRA, and

(5) current material safety data sheets for each pesticide

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

analytical standards and methods for the pesticide, pesticide breakdown products, or metabolites

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.

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

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

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

(c) The commissioner must notify the applicant of the approval, denial, cancellation, state use or distribution restrictions.

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

(e) The commissioner may exempt pesticides that have been deregulated or classified as minimum risk by the United States Environmental Protection Agency from the requirement of registration.

Subd 6 **Discontinuance of registration** To ensure complete withdrawal from distribution or further use of a pesticide, a person who intends to discontinue a pesticide registration must

(1) terminate a further distribution within the state and continue to register the pesticide annually for two successive years,

(2) initiate and complete a total recall of the pesticide from all distribution in the state within 60 days from the date of notification to the commissioner of intent to discontinue registration, or

(3) submit to the commissioner evidence adequate to document that no distribution of the registered pesticide has occurred in the state

History 1987 c 358 s 68, 1989 c 326 art 5 s 30 33, 1990 c 597 s 2, 1991 c 309 s 11, 1992 c 439 s 1, 1992 c 513 art 2 s 15, 1992 c 603 s 22, 1993 c 226 s 15, 1993 c 367 s 6,7, 1999 c 6 s 1, 1999 c 231 s 39

18B 27 PESTICIDE REGISTRATION FOR SPECIAL LOCAL NEEDS

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

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

(1) a pesticide use that is not registered under section 18B 26 or FIFRA, or

(2) a pesticide on which restrictions are being considered

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

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

(1) the pesticide's composition warrants the proposed claims for the pesticide,

(2) the pesticide's label and other material required to be submitted comply with this chapter,

(3) the pesticide will perform its intended function without unreasonable adverse effect on the environment,

(4) the pesticide will not generally cause unreasonable adverse effects on the environment when used in accordance with label directions, and

(5) a special local need for the pesticide exists

(b) The commissioner may revoke or modify a special local need registration if the commissioner determines that the terms or conditions of the registration do not comply with paragraph (a)

Subd 3 **Application fee** An application fee for a special local need registration must be accompanied by a nonrefundable fee of \$150

History 1987 c 358 s 69, 1990 c 597 s 3

18B 28 EXPERIMENTAL USE PESTICIDE PRODUCT REGISTRATION

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

Subd 2 **Application review and registration** (a) After reviewing the application accompanied by the application fee, the commissioner may issue an experimental use

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

(b) The commissioner may deny issuance of an experimental use pesticide product registration permit if the commissioner determines that issuance of a registration is not warranted or that the use to be made of the pesticide under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

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

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

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

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

History 1987 c 358 s 70, 1990 c 597 s 4

18B 285 EXPERIMENTAL GENETICALLY ENGINEERED PESTICIDE PRODUCT REGISTRATION

Subdivision 1 Requirement (a) A person may not use, distribute, or conduct release experiments with a genetically engineered pesticide in any amount in the state until it is registered under this section or section 18B 26. Use, distribution, or release of a genetically engineered pesticide must be registered under this section until the commissioner determines by rule or order that the genetically engineered pesticide may be subject to section 18B 26. Experimental genetically engineered pesticide product registrations expire on December 31 of each year and may be renewed on or before that date.

(b) After reviewing a completed application, the commissioner may issue an experimental genetically engineered pesticide product registration if the commissioner determines that the applicant has adequately demonstrated that the proposed release does not have the potential for unreasonable adverse effects on the environment. The commissioner may prescribe terms and conditions, including, but not limited to, the period for the experimental genetically engineered pesticide product registration, the amount or number of genetically engineered pesticide product to be used, monitoring activities, department inspection schedules, reporting of experiment results, and experiment termination procedures. A person may not violate terms or conditions of a registration issued under this section. After an experimental genetically engineered pesticide product registration is issued, the commissioner may revoke or change the registration at any time if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(c) The commissioner may deny issuance of an experimental genetically engineered pesticide product registration if the commissioner determines that the use to be made of the pesticide under the proposed terms and conditions may cause unreasonable adverse effects on the environment

Subd 2 Application A person must file an application for experimental genetically engineered pesticide product registration with the commissioner. An application to register an experimental genetically engineered pesticide product must include

- (1) the name and address of the applicant,
- (2) any United States Environmental Protection Agency regulatory application or approval document required under federal law or rule,
- (3) the purpose or objectives of the product,
- (4) an experimental genetically engineered pesticide product use label,
- (5) the name, address, and telephone number of cooperators or participants in this state,
- (6) the amount of material to be shipped or used in this state, and
- (7) other information requested by the commissioner

Subd 3 Application fee An application for registration of an experimental genetically engineered pesticide product must be accompanied by a nonrefundable application fee of \$125

History 1991 c 250 s 10

18B 29 RECIPROCAL LICENSING AND CERTIFICATION AGREEMENTS

The commissioner may waive all or part of the examination requirements provided for in sections 18B 29 to 18B 35 on a reciprocal basis with any other jurisdiction which has substantially the same requirements. Licenses or certificates issued under sections 18B 29 to 18B 35 may be suspended or revoked upon suspension or revocation of the license or certificate of another jurisdiction supporting the issuance of a Minnesota license or certificate and in the same manner as other licenses and certificates

History 1987 c 358 s 71

18B 30 PESTICIDE USE LICENSE REQUIREMENT

A person may not use a restricted use pesticide without a license or certification required under sections 18B 29 to 18B 35 and the use may only be done under conditions prescribed by the commissioner

History 1987 c 358 s 72, 1997 c 131 s 2

18B 305 PESTICIDE EDUCATION AND TRAINING

Subdivision 1 Education and training (a) The commissioner shall develop, in conjunction with the University of Minnesota extension service, innovative educational and training programs addressing pesticide concerns including

- (1) water quality protection,
- (2) endangered species,
- (3) pesticide residues in food and water,
- (4) worker protection,
- (5) chronic toxicity,
- (6) integrated pest management, and
- (7) pesticide disposal

(b) The commissioner shall appoint educational planning committees which must include representatives of industry

(c) Specific current regulatory concerns must be discussed and, if appropriate, incorporated into each training session

(d) The commissioner may approve programs from private industry and nonprofit organizations that meet minimum requirements for education, training, and certification

Subd 2 Training manual and examination development The commissioner, in conjunction with the University of Minnesota extension service, shall continually revise and update pesticide applicator training manuals and examinations. The manuals and examinations must be written to meet or exceed the minimum standards required by the United States Environmental Protection Agency and pertinent state specific information. Questions in the examinations must be determined by the responsible agencies. Manuals and examinations must include pesticide management practices that discuss prevention of pesticide occurrence in groundwaters of the state.

Subd 3 Pesticide applicator education and examination review board (a) The commissioner shall establish and chair a pesticide applicator education and examination review board. This board, consisting of 15 members, must meet at least once a year before the initiation of pesticide educational planning programs. The purpose of the board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness.

(b) Membership on this board must include applicators representing various licensing categories, such as agriculture, turf and ornamental, aerial, aquatic, and structural pest control and private pesticide applicators, and other governmental agencies, including the University of Minnesota, the pollution control agency, department of health, department of natural resources, and department of transportation.

(c) Membership on the board must include representatives from environmental protection organizations.

(d) This board shall review licensing and certification requirements for private, commercial, and noncommercial applicators and provide a report to the commissioner with recommendations by January 15, 1998. This board shall review category requirements and provide recommendations to the commissioner. This board expires on June 30, 2001.

History 1989 c 326 art 5 s 34, 1997 c 192 s 13

18B 31 PESTICIDE DEALER LICENSE

Subdivision 1 Requirement (a) Except as provided in paragraph (b) no fixed location may offer for sale or sell a restricted use or bulk pesticide to a pesticide end user 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 a restricted use or bulk pesticide is offered for sale or sold to a pesticide end user

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

Subd 3 License A pesticide dealer license

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

(2) is not transferable to another location, and

(3) must be prominently displayed to the public in the pesticide dealer's place of business

Subd 4 Application (a) A person must apply to the commissioner for a pesticide dealer license on the forms and in the manner required by the commissioner

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

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

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

History 1987 c 358 s 73, 1989 c 326 art 5 s 35 37 1993 c 367 s 8, 1995 c 95 s 2

18B 315 AQUATIC PEST CONTROL LICENSE

Subdivision 1 Requirement (a) A person may not engage in aquatic pest control applications

(1) for hire without 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 aquatic pest control operations

(b) An 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 law enforcement officer. The license identification card must contain information required by the commissioner

Subd 2 Licenses (a) An 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 aquatic pest controller's place of business

(b) The commissioner shall establish categories of master and journeyman for a person to be licensed under an aquatic pest control license

Subd 3 Application (a) A person must apply to the commissioner for an aquatic pest control license on forms and in a 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 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 an aquatic pest control license if the person has the necessary qualifications through knowledge and experience to properly plan, determine, and supervise the selection and application of pesticides in aquatic pest control. To demonstrate the qualifications and become licensed as a master under the aquatic pest control license, a person must

(1) pass a closed book test administered by the commissioner,

(2) have direct experience as a licensed journeyman under an aquatic pest control license for at least two years by this state or a state with equivalent certification requirements, or 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 an aquatic pest control license if the person

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

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

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

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

Subd 5 Financial responsibility (a) An 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 shall 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 this section must be accompanied by proof of satisfaction of judgments previously rendered

Subd 6 Fees (a) An applicant for an 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 aquatic pest control license

(b) An application received after expiration of the aquatic pest control license is subject to a penalty 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 1996 c 330 s 4

18B 32 STRUCTURAL PEST CONTROL LICENSE

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

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

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

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

(c) Notwithstanding the licensing requirements of this subdivision, a person may control the following nuisance or economically damaging wild animals, by trapping, without a structural pest control license

(1) fur bearing animals, as defined in section 97A 015, with a valid trapping license or special permit from the commissioner of natural resources, and

(2) skunks, woodchucks, gophers, porcupines, coyotes, moles, and weasels

Subd 2 Licenses (a) A structural 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 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

Subd 3 Application (a) A person must apply to the commissioner for a structural 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 pest control. The commissioner shall establish the examination procedure, including the phases and contents of the examination

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

(1) pass a closed book test administered by the commissioner

(2) have direct experience as a licensed journeyman under a structural pest control license for at least two years by this state or a state with equivalent certification requirements or as a full time licensed master in another state with equivalent certification requirements, 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 if the person

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History 1987 c 358 s 74, 1989 c 326 art 5 s 38, 1993 c 283 s 1, 1994 c 623 art 1 s 8, 1996 c 330 s 5

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 aquatic pest control license.

(b) A person with a commercial applicator license may not apply pesticides on or into surface waters without an aquatic pest control license under section 18B 315,

except an 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 pesticides, 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.

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

Subd 3 License A commercial applicator license

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

(2) is not transferable to another person, and

(3) must be prominently displayed to the public in the commercial applicator's place of business.

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.

Subd 5 Renewal application (a) A person must apply to the commissioner to renew a commercial applicator license. The commissioner may renew a commercial applicator license accompanied by the application fee, subject to reexamination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The applicant may renew a commercial applicator license within 12 months after expiration of the license without having to meet initial testing requirements. The commissioner may require additional demonstration of applicator qualification if a person has had a license suspended or revoked or has had a history of violations of this chapter.

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

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

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner must immediately suspend the license of a person who fails to maintain the required bond or insurance. The performance bond or insurance policy must contain a provision requiring the insurance or bonding company to notify the commissioner by ten days before the effective date of cancellation,

termination, or any other change of the bond or insurance. If there is recovery against the bond or insurance, additional coverage must be secured to maintain financial responsibility equal to the original amount required.

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

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

Subd 7 Application fees (a) A person initially applying for or renewing a commercial applicator license must pay a nonrefundable application fee of \$50.

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

(c) An application for a duplicate commercial applicator license must be accompanied by a nonrefundable application fee of \$10.

History 1987 c 358 s 75, 1989 c 326 art 5 s 39 41, 1993 c 283 s 2,3, 1996 c 330 s 6, 1997 c 7 art 1 s 8

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 an aquatic pest control license, except an 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.

Subd 2 License A noncommercial applicator license

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

(2) is not transferable, and

(3) must be prominently displayed to the public in the noncommercial applicator's place of business.

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.

Subd 4 Renewal (a) A person must apply to the commissioner to renew a noncommercial applicator license. The commissioner may renew a license subject to reexamination, attendance at workshops approved by the commissioner, or other

requirements imposed by the commissioner to provide the applicator with information regarding changing technology and to help assure a continuing level of competence and ability to use pesticides safely and properly. The commissioner may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of violations of this chapter.

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

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

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

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

(c) An application for a duplicate noncommercial applicator license must be accompanied by a nonrefundable application fee of \$10.

History 1987 c 358 s 76, 1989 c 326 art 5 s 42 44, 1993 c 283 s 4,5, 1996 c 330 s 7

18B 35 APPLICATION CATEGORIES WITHIN APPLICATOR LICENSES

Subdivision 1 Establishment (a) The commissioner may establish categories of structural pest control, commercial applicator, and noncommercial applicator licenses for administering and enforcing this chapter. The categories may include pest control operators and ornamental, agricultural, aquatic, forest, and right of way pesticide applicators. Separate subclassifications of categories may be specified as to ground, aerial, or manual methods to apply pesticides or to the use of pesticides to control insects, plant diseases, rodents, or weeds.

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

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

History 1987 c 358 s 77

18B 36 PRIVATE APPLICATOR CERTIFICATION

Subdivision 1 Requirement (a) Except for a licensed commercial or noncommercial applicator, only a certified private applicator may use a restricted use pesticide to produce an agricultural commodity.

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

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

(3) when the private applicator is one of two or fewer specified individuals employed as agricultural labor as defined by section 268 04, subdivision 12, paragraph (15), clause (a), and the owner or operator is a certified private applicator or is licensed as a noncommercial applicator.

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

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 shall expire March 1 of the third calendar year after the initial year of certification.

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

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

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

History 1987 c 358 s 78, 1989 c 326 art 5 s 45,46, 1993 c 367 s 9, 1995 c 95 s 3, 1997 c 131 s 3

18B 37 RECORDS, REPORTS, PLANS, AND INSPECTIONS

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

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

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

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

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

- (1) date of structural pest control application,
- (2) target pest,
- (3) brand name of the pesticide, United States Environmental Protection Agency registration number, and amount used,
- (4) for fumigation, the temperature and exposure time,
- (5) time the pesticide application was completed,
- (6) name and address of the customer,
- (7) name and signature of structural pest control applicator, name of company and address of applicator or company, applicator's signature, and license number of applicator, and

(8) any other information required by the commissioner

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

(c) Records must be retained for five years after the date of treatment.

(d) A copy of the record must be given to a person who ordered the application that is present at the site where the structural pest control application is conducted, placed in a conspicuous location at the site where the structural pest control application is conducted immediately after the application of the pesticides, or delivered to the person who ordered an application or the owner of the site. The commissioner must make sample forms available that meet the requirements of this subdivision.

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

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

History 1987 c 358 s 79, 1989 c 326 art 5 s 47 50, 1993 c 367 s 10

18B 38 PROTECTION OF TRADE SECRETS

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

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

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

Subd 3 **Notification** If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under subdivision 2, the

commissioner shall notify the applicant or registrant by certified mail. The commissioner shall not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

History 1987 c 358 s 80

18B 39 EXISTING RULES

Rules of the commissioner of agriculture in effect on July 1, 1987, relating to the distribution, use, storage, handling, and disposal of pesticides, rnsates, and pesticide containers remain in effect until they are superseded by new rules.

History 1987 c 358 s 81, 1996 c 305 art 2 s 2