

CHAPTER 18E

AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT LAW

18E.02 DEFINITIONS.
18E.03 AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT.

18E.04 REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.

18E.02 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions contained in this section apply to this chapter. Except for terms defined in this section, the definitions contained in chapters 18B, 18C, and 18D apply to this chapter.

[For text of subs 2 to 4, see M.S.2006]

Subd. 5. **Eligible person.** “Eligible person” means:

(1) a responsible party or an owner of real property, but does not include the state, a state agency, or a political subdivision of the state, except as provided in clause (2); common carriers, as defined by section 218.011, subdivision 10; motor carriers as defined by section 221.011, subdivision 15, while transporting agricultural chemicals except as provided in clause (3); or the federal government or an agency of the federal government;

(2) the owners of municipal airports in Minnesota where a licensed aerial pesticide applicator has caused an incident through storage, handling, or distribution operations for agricultural chemicals if (i) the commissioner has determined that corrective action is necessary and (ii) the commissioner determines, and the Agricultural Chemical Response Compensation Board concurs, that based on an affirmative showing made by the owner, a responsible party cannot be identified or the identified responsible party is unable to comply with an order for corrective action; or

(3) a person involved in a transaction relating to real property who is not a responsible party or owner of the real property and who voluntarily takes corrective action on the property in response to a request or order for corrective action from the commissioner.

[For text of subs 5a to 6, see M.S.2006]

Subd. 7. **Incident.** “Incident” means a flood, fire, tornado, transportation accident, storage container rupture, leak, spill, emission discharge, escape, disposal, or other event that releases an agricultural chemical accidentally or otherwise into the environment and may cause unreasonable adverse effects on the environment. Incident does not include a release from the normal use of a product or practice in accordance with law.

History: 2007 c 45 art 1 s 31–33

18E.03 AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT.

[For text of subs 1 to 3, see M.S.2006]

Subd. 4. **Fee.** (a) The response and reimbursement fee consists of the surcharges and any adjustments made by the commissioner in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined and imposed annually by the commissioner as required to satisfy the requirements in subdivision 3. The commissioner shall adjust the amount of the surcharges imposed in proportion to the amount of the surcharges listed in this subdivision. License application categories under paragraph (d) must be charged in proportion to the amount of surcharges imposed up to a maximum of 50 percent of the license fees set under chapters 18B and 18C.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26,

subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state and sales of pesticides for use in the state during the previous calendar year, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. No surcharge is required if the surcharge amount based on percent of annual gross sales is less than \$10. 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 section 18B.26, subdivision 3, 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 surcharge in this paragraph if the registrant properly documents the sale location and the distributors.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the license application of persons licensed under chapters 18B and 18C consisting of:

(1) a \$75 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a \$75 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a \$50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a \$20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7; and

(5) a \$20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, political subdivision of the state, the federal government, or an agency of the federal government.

(e) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

(f) Paragraphs (c) to (e) apply to sales, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.

[For text of subs 6 and 7, see M.S.2006]

History: 2007 c 45 art 1 s 34

18E.04 REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.

[For text of subs 1 to 3, see M.S.2006]

Subd. 4. Reimbursement payments. (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for 80 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than or equal to \$350,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

(e) The board may not make reimbursement greater than the maximum allowed under paragraph (a) for all incidents on a single site which:

(1) were not reported at the time of release but were discovered and reported after July 1, 1989; and

(2) may have occurred prior to July 1, 1989, as determined by the commissioner.

(f) The board may only reimburse an eligible person for separate incidents within a single site if the commissioner determines that each incident is completely separate and distinct in respect of location within the single site or time of occurrence.

(g) Except for an emergency incident, the board may not reimburse or pay for more than 60 percent of the corrective action costs of an eligible person or for an incident within five years of a previous incident at a single site resulting from a site recontamination.

(h) The deduction of \$1,000 and 20 percent from the \$350,000 remuneration may be waived by the board if the incident took place on or after August 18, 2007, and was caused by flooding associated with Presidential Declaration of Major Disaster DR-1717.

[For text of subs 5 and 6, see M.S.2006]

History: *1Sp2007 c 2 art 3 s 5*