

## CHAPTER 18B

### PESTICIDE CONTROL

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#### 18B.01 DEFINITIONS.

*[For text of subd 1, see M.S.2008]*

Subd. 1a. **Agricultural pesticide.** "Agricultural pesticide" means a pesticide that bears labeling that meets federal worker protection agricultural use requirements established in Code of Federal Regulations, title 40, parts 156 and 170.

Subd. 1b. **Agricultural pesticide dealer.** "Agricultural pesticide dealer" means a person who distributes an agricultural pesticide in the state or into the state to an end user. This action would commonly be described as a retail sale.

*[For text of subs 2 to 7, see M.S.2008]*

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 or into this state.

*[For text of subs 9 to 14a, see M.S.2008]*

Subd. 14b. **Nonagricultural pesticide.** "Nonagricultural pesticide" means a pesticide that does not bear labeling that meets federal worker protection agricultural use requirements established in Code of Federal Regulations, title 40, parts 156 and 170.

*[For text of subs 15 to 32, see M.S.2008]*

**History:** 2009 c 94 art 1 s 44-47.

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

Subdivision 1. **Collection and disposal.** The commissioner of agriculture shall establish and operate a program to collect and dispose of waste pesticides. The program must be made available to agricultural and nonagricultural pesticide end users whose waste generating activity occurs in this state. Waste pesticide generated in another state is not eligible for collection under this section.

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.** (a) For agricultural waste pesticides, the commissioner must designate a place in each county of the state that is available at least every other year for persons to dispose of unused portions of agricultural pesticides. The commissioner shall consult with the person responsible for solid waste management and disposal in each county to determine an appropriate location and to advertise each collection event. The commissioner may provide a collection opportunity in a county more frequently if the commissioner determines that a collection is warranted.

(b) For nonagricultural waste pesticides, the commissioner must provide a disposal opportunity each year in each county.

(c) As provided under subdivision 7, the commissioner may enter into cooperative agreements with local units of government to provide the collections required under paragraph (a) or (b) and shall provide a local unit of government, as part of the cooperative agreement, with funding for reasonable costs incurred including, but not limited to, related supplies, transportation, advertising, and disposal costs as well as reasonable overhead costs.

(d) A person who collects waste pesticide under this section shall, on a form provided or in a method approved by the commissioner, record information on each waste pesticide product collected including, but not limited to, the quantity collected and either the product name and its active ingredient or ingredients or the United States Environmental Protection Agency registration number. The person must submit this information to the commissioner at least annually by January 30.

**Subd. 3. Information; education; report.** (a) The commissioner shall provide informational and educational materials regarding waste pesticides and the proper management of waste pesticides to the public.

(b) No later than March 15 each year, the commissioner must report the following to the legislative committees with jurisdiction over agriculture finance:

(1) each instance of a refusal to collect waste pesticide or the assessment of a fee to a pesticide end user as authorized in subdivision 2, paragraph (b); and

(2) waste pesticide collection information including a discussion of the type and quantity of waste pesticide collected by the commissioner and any entity collecting waste pesticide under subdivision 7 during the previous calendar year, a summary of waste pesticide collection trends, and any corresponding program recommendations.

*[For text of subd 4, see M.S.2008]*

**Subd. 7. Cooperative agreements.** (a) The commissioner may enter into cooperative agreements with state agencies and local units of government for administration of the waste pesticide collection program. The commissioner shall ensure that the program is carried out in all counties. If the commissioner cannot contract with another party to administer the program in a county, the commissioner shall perform collections according to the provisions of this section.

(b) The commissioner, according to the terms of a cooperative agreement between the commissioner and a local unit of government, may establish limits for unusual types or excessive quantities of waste pesticide offered by pesticide end users to the local unit of government.

**Subd. 8. Waste pesticide program surcharge.** The commissioner shall annually collect a waste pesticide program surcharge of \$50 on each pesticide product registered in the state as part of a pesticide product registration application under section 18B.26, subdivision 3.

**Subd. 9. Waste pesticide cooperative agreement account.** (a) A waste pesticide cooperative agreement account is created in the agricultural fund. Notwithstanding section 18B.05, the proceeds of surcharges imposed under subdivision 8 must be deposited in the agricultural fund and credited to the waste pesticide cooperative agreement account.

(b) Money in the waste pesticide cooperative agreement account, including interest, is appropriated to the commissioner and may only be used for costs incurred under a cooperative agreement pursuant to this section.

(c) Notwithstanding paragraph (b), if the amount available in the waste pesticide cooperative agreement account in any fiscal year exceeds the amount obligated to local

units of government under subdivision 7, the excess is appropriated to the commissioner to perform waste pesticide collections under this section.

**History:** 2009 c 94 art 1 s 48-54

### 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.

(f) It is unlawful for a person to distribute or use a pesticide in the state, or to sell into the state for use in the state, any pesticide product that has not been registered by the commissioner and for which the applicable pesticide registration application fee, gross sales fee, or waste pesticide program surcharge is not paid pursuant to subdivisions 3 and 4.

(g) Every person who sells for use in the state a pesticide product that has been registered by the commissioner shall pay to the commissioner the applicable registration application fees, sales fees, and waste pesticide program surcharges. These sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in the state. There is a rebuttable presumption that pesticide products that are sold or distributed in or into the state by any person are sold or distributed for use in the state.

*[For text of subd 2, see M.S.2008]*

Subd. 3. **Registration application and gross sales fee.** (a) For an agricultural pesticide, a registrant shall pay an annual registration application fee for each agricultural pesticide of \$350. The fee is due by December 31 preceding the year for which the application for registration is made. The fee is nonrefundable.

(b) For a nonagricultural pesticide, a registrant shall pay a minimum annual registration application fee for each nonagricultural pesticide of \$350. The fee is due by December 31 preceding the year for which the application for registration is made. The fee is nonrefundable. The registrant of a nonagricultural pesticide shall pay, in addition to the \$350 minimum fee, a fee of 0.5 percent of annual gross sales of the nonagricultural pesticide in the state and the annual gross sales of the nonagricultural pesticide sold into the state for use in this state. The commissioner may not assess a fee under this paragraph if

the amount due based on percent of annual gross sales is less than \$10. The registrant shall secure sufficient sales information of nonagricultural pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of nonagricultural pesticides in this state and sales of nonagricultural 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 (g), and fees shall be paid by the registrant based upon those reported sales. Sales of nonagricultural pesticides in the state for use outside of the state are exempt from the gross sales 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 nonagricultural pesticide by the registrant for the preceding calendar year. A pesticide determined by the commissioner to be a sanitizer or disinfectant is exempt from the gross sales fee.

(c) For agricultural pesticides, a licensed agricultural pesticide dealer or licensed pesticide dealer shall pay a gross sales fee of 0.55 percent of annual gross sales of the agricultural pesticide in the state and the annual gross sales of the agricultural pesticide sold into the state for use in this state.

(d) In those cases where a registrant first sells an agricultural pesticide in or into the state to a pesticide end user, the registrant must first obtain an agricultural pesticide dealer license and is responsible for payment of the annual gross sales fee under paragraph (c), record keeping under paragraph (i), and all other requirements of section 18B.316.

(e) If the total annual revenue from fees collected in fiscal year 2011, 2012, or 2013, by the commissioner on the registration and sale of pesticides is less than \$6,600,000, the commissioner, after a public hearing, may increase proportionally the pesticide sales and product registration fees under this chapter by the amount necessary to ensure this level of revenue is achieved. The authority under this section expires on June 30, 2014. The commissioner shall report any fee increases under this paragraph 60 days before the fee change is effective to the senate and house of representatives agriculture budget divisions.

(f) An additional fee of 50 percent of the registration application fee 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.

(g) A registrant must annually report to the commissioner the amount, type and annual gross sales of each registered nonagricultural 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 or approve the method for submittal of the report and may require additional information deemed necessary to determine the amount and type of nonagricultural pesticide annually distributed in the state. The information required shall include the brand name, United States Environmental Protection Agency registration number, and amount of each nonagricultural 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.

(h) A licensed agricultural pesticide dealer or licensed pesticide dealer must annually report to the commissioner the amount, type, and annual gross sales of each registered agricultural pesticide sold, offered for sale, or otherwise distributed in the state or into the state for use in the state. The report must be filed by January 31 for the previous year's sales. The commissioner shall specify the form, contents, and approved electronic method for submittal of the report and may require additional information deemed necessary to determine the amount and type of agricultural pesticide annually distributed within the state or into the state. The information required must include the brand name, United States Environmental Protection Agency registration number, and amount of each agricultural pesticide sold, offered for sale, or otherwise distributed in the state or into the state.

(i) A person who registers a pesticide with the commissioner under paragraph (b), or a registrant under paragraph (d), shall keep accurate records for five years detailing all distribution or sales transactions into the state or in the state and subject to a fee and surcharge under this section.

(j) The records are subject to inspection, copying, and audit by the commissioner and must clearly demonstrate proof of payment of all applicable fees and surcharges for each registered pesticide product sold for use in this state. A person who is located outside of this state must maintain and make available records required by this subdivision in this state or pay all costs incurred by the commissioner in the inspecting, copying, or auditing of the records.

(k) The commissioner may adopt by rule regulations that require persons subject to audit under this section to provide information determined by the commissioner to be necessary to enable the commissioner to perform the audit.

(l) A registrant who is required to pay more than the minimum fee for any pesticide under paragraph (b) must pay a late fee penalty of \$100 for each pesticide application fee paid after March 1 in the year for which the license is to be issued.

*[For text of subds 4 to 6, see M.S.2008]*

**History:** 2009 c 94 art 1 s 55,56

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

*[For text of subds 1 and 2, see M.S.2008]*

**Subd. 3. License.** A pesticide dealer license:

(1) is issued by the commissioner upon receipt and review of a complete initial or renewal application;

(2) is valid for one year and expires on January 31 of each year unless it is suspended or revoked before that date;

(3) is not transferable to another location; and

(4) 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.

(c) An application for renewal of a pesticide dealer license is not complete until the commissioner receives the report and applicable fees required under section 18B.316, subdivision 8.

*[For text of subd 5, see M.S.2008]*

**History:** 2009 c 94 art 1 s 57,58

### **18B.316 AGRICULTURAL PESTICIDE DEALER LICENSE AND REPORTING.**

**Subdivision 1. Requirement.** (a) A person must not distribute or sell an agricultural pesticide in the state or into the state without first obtaining an agricultural pesticide dealer license.

(b) Each location or place of business from which an agricultural pesticide is distributed or sold in the state or into the state is required to have a separate agricultural pesticide dealer license.

(c) A person who is a licensed pesticide dealer under section 18B.31 is not required to also be licensed under this subdivision.

Subd. 2. **Exemption.** A person who is a pesticide registrant under provisions of this chapter is exempt from the requirement of subdivision 1, except in those cases where a registrant first sells an agricultural pesticide in or into the state to a pesticide end user, the registrant must first obtain an agricultural pesticide dealer license.

Subd. 3. **Resident agent.** A person required to be licensed under subdivisions 1 and 2, or a person licensed as a pesticide dealer pursuant to section 18B.31 and who operates from a location or place of business outside the state and who distributes or sells an agricultural pesticide into the state, must continuously maintain in this state the following:

(1) a registered office; and

(2) a registered agent, who may be either a resident of this state whose business office or residence is identical with the registered office under clause (1), a domestic corporation or limited liability company, or a foreign corporation of limited liability company authorized to transact business in this state and having a business office identical with the registered office.

A person licensed under this section or section 18B.31 shall annually file with the commissioner, either at the time of initial licensing or as part of license renewal, the name, address, telephone number, and e-mail address of the licensee's registered agent.

For licensees under section 18B.31 who are located in the state, the licensee is the registered agent.

Subd. 4. **Responsibility.** The resident agent is responsible for the acts of a licensed agricultural pesticide dealer, or of a licensed pesticide dealer under section 18B.31 who operates from a location or place of business outside the state and who distributes or sells an agricultural pesticide into the state, as well as the acts of the employees of those licensees.

Subd. 5. **Records.** A person licensed as an agricultural pesticide dealer, or a person licensed as a pesticide dealer pursuant to section 18B.31, must maintain for five years at the person's principal place of business accurate records of purchases, sales, and distributions of agricultural pesticides in and into this state, including those of its branch locations. The records shall be made available for audit under provisions of this chapter and chapter 18D.

Subd. 6. **Agricultural pesticide sales invoices.** Sales invoices for agricultural pesticides sold in or into this state by a licensed agricultural pesticide dealer or a pesticide dealer under this section must show the percent of gross sales fee rate assessed and the gross sales fee paid under section 18B.26, subdivision 3, paragraph (c). Only the person who actually will pay the gross sales fee may show the rate or the amount of the fee as a line item on the sales invoice.

Subd. 7. **License.** An agricultural pesticide dealer license:

(1) is issued by the commissioner upon receipt and review of a complete initial or renewal application;

(2) is valid for one year and expires on January 31 of each year;

(3) is not transferable from one location or place of business to another location or place of business; and

(4) must be prominently displayed to the public in the agricultural pesticide dealer's place of business and in the registered office of the resident agent.

Subd. 8. **Report of sales and payment to commissioner.** A person who is an agricultural pesticide dealer, or is a licensed pesticide dealer under section 18B.31, who distributes or sells an agricultural pesticide in or into the state, and a pesticide registrant pursuant to section 18B.26, subdivision 3, paragraph (d), shall no later than January 31 of

each year report and pay applicable fees on annual gross sales of agricultural pesticides to the commissioner pursuant to requirements under section 18B.26, subdivision 3, paragraphs (c) and (h).

Subd. 9. **Application.** (a) A person must apply to the commissioner for an agricultural pesticide dealer license on forms and in a manner approved by the commissioner.

(b) The applicant must be the person in charge of each location or place of business from which agricultural pesticides are distributed or sold in or into the state.

(c) The commissioner may require that the applicant provide information regarding the applicant's proposed operations and other information considered pertinent by the commissioner.

(d) The commissioner may require additional demonstration of licensee qualification if the licensee has had a license suspended or revoked, or has otherwise had a history of violations in another state or violations of this chapter.

(e) A licensed agricultural pesticide dealer who changes the dealer's address or place of business must immediately notify the commissioner of the change.

(f) Beginning January 1, 2011, an application for renewal of an agricultural pesticide dealer license is complete only when a report and any applicable payment of fees under subdivision 8 are received by the commissioner.

Subd. 10. **Application fee.** (a) An application for an agricultural pesticide dealer license, or a renewal of an agricultural pesticide dealer license, must be accompanied by a nonrefundable fee of \$150.

(b) If an application for renewal of an agricultural pesticide dealer license is not filed before January of the year for which the license is to be issued, an additional fee of 50 percent of the application fee must be paid by the applicant before the commissioner may issue the license.

**History:** 2009 c 94 art 1 s 59

### 18B.346 PESTICIDE APPLICATION ON RAILROAD PROPERTY.

Subdivision 1. **Applicability.** This section applies only to common carrier railroads.

Subd. 2. **Safety information.** (a) In coordination with common carrier railroad companies operating in this state, the commissioner shall provide annual pesticide safety outreach opportunities for railroad employees.

(b) A common carrier railroad that operates in this state must provide annual employee pesticide safety training opportunities.

Subd. 3. **Pesticide applications.** (a) A person may not directly apply a restricted use pesticide to occupied or unoccupied locomotives, track repair equipment, or on-track housing units unless the pesticide is specifically labeled for that use.

(b) Employees of common carrier railroads must not be required to work in affected areas in a manner that is inconsistent with the pesticide label.

Subd. 4. **Misuse reporting.** A common carrier railroad or a commercial applicator hired by the common carrier railroad to apply pesticide must report to the commissioner within four hours, or as soon as practicable, any pesticide misuse known to the railroad company or commercial applicator that occurred on railroad property or to other property under the control of the railroad company. For the purposes of this section, "misuse" means a pesticide application that violates subdivision 3 or any provision in section 18B.07.

**History:** 2009 c 94 art 1 s 60

**18B.37 RECORDS; PLANS; 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 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.

*[For text of subs 2 to 6, see M.S.2008]*

**History:** 2009 c 94 art 1 s 61