

## CHAPTER 103I

### WELLS, BORINGS, AND UNDERGROUND USES

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**103I.001 LEGISLATIVE INTENT.**

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

**History:** 1989 c 326 art 3 s 1

**103I.005 DEFINITIONS.**

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

Subd. 1a. **Bored geothermal heat exchanger.** "Bored geothermal heat exchanger" means an earth-coupled heating or cooling device consisting of a sealed closed-loop piping system installed in a boring in the ground to transfer heat to or from the surrounding earth with no discharge.

Subd. 2. **Boring.** "Boring" means a hole or excavation that is not used to extract water and includes exploratory borings, environmental bore holes, bored geothermal heat exchangers, and elevator shafts.

Subd. 2a. **Certified representative.** "Certified representative" means a person certified by the commissioner to represent a well contractor, limited well/boring contractor, monitoring well contractor, or elevator boring contractor.

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

Subd. 4. **Department.** "Department" means the Department of Health.

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

- (1) an excavation 25 feet or less in depth for temporary dewatering during construction; or
- (2) a well used to lower groundwater levels for control or removal of groundwater contamination.

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

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

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

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

Subd. 9. **Exploratory boring.** "Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, apatite, diamonds, graphite, gemstones, kaolin clay, and metallic minerals, including

iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.

Subd. 10. **Explorer.** "Explorer" means a person with an explorer's license issued by the commissioner.

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

Subd. 12. **Limited well/boring contractor.** "Limited well/boring contractor" means a person with a limited well/boring contractor's license issued by the commissioner. Limited well/boring contractor's licenses are issued for constructing, repairing, and sealing bored geothermal heat exchangers; installing, repairing, and modifying pitless units and pitless adaptors, well casings above the pitless unit or pitless adaptor, well screens, or well diameters; constructing, repairing, and sealing drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; and installing well pumps or pumping equipment.

Subd. 13. [Repealed, 2005 c 106 s 68]

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

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

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

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

Subd. 18. [Repealed, 1991 c 199 art 2 s 29; 1991 c 355 s 54]

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

Subd. 20. [Repealed, 2013 c 108 art 12 s 109]

Subd. 20a. **Water supply well.** "Water supply well" means a well that is not a dewatering well or monitoring well and includes wells used:

- (1) for potable water supply;
- (2) for irrigation;
- (3) for agricultural, commercial, or industrial water supply;
- (4) for heating or cooling;
- (5) as a remedial well; and

(6) for testing water yield for irrigation, commercial or industrial uses, residential supply, or public water supply.

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

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

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

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

(4) an excavation for nonpotable use for wildfire suppression activities; or

(5) borings.

Subd. 22. **Well disclosure certificate.** "Well disclosure certificate" means a certificate containing the requirements of section 103I.235, subdivision 1, paragraph (j).

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

Subd. 23a. **Well that is in use.** A "well that is in use" means a well that operates on a daily, regular, or seasonal basis. A well in use includes a well that operates for the purpose of irrigation, fire protection, or emergency pumping.

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

**History:** 1989 c 326 art 3 s 2; 1990 c 597 s 16-20; 1991 c 355 s 6-8; 1999 c 153 s 1-3; 2000 c 260 s 15; 2005 c 106 s 9-15; 2006 c 281 art 3 s 16; 2008 c 277 art 1 s 5; 2013 c 108 art 12 s 11,108

## JURISDICTION OVER WELLS AND BORINGS

### 103I.101 POWERS AND DUTIES OF COMMISSIONER OF HEALTH.

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

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

(1) regulate the drilling, construction, modification, repair, and sealing of wells and borings;

(2) examine and license well contractors; persons constructing, repairing, and sealing bored geothermal heat exchangers; persons modifying or repairing well casings, well screens, or well diameters; persons

constructing, repairing, and sealing drive point wells or dug wells; persons constructing, repairing, and sealing dewatering wells; persons sealing wells; persons installing well pumps or pumping equipment; and persons excavating or drilling holes for the installation of elevator borings or hydraulic cylinders;

(3) register and examine monitoring well contractors;

(4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;

(5) after consultation with the commissioner of natural resources and the Pollution Control Agency, establish standards for the design, location, construction, repair, and sealing of wells and borings within the state; and

(6) issue permits for wells, groundwater thermal devices, bored geothermal heat exchangers, and elevator borings.

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

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

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

(1) issuance of licenses for:

(i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;

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

(iii) persons constructing, repairing, and sealing dewatering wells;

(iv) persons sealing wells;

(v) persons installing well pumps or pumping equipment;

(vi) persons constructing, repairing, and sealing bored geothermal heat exchangers; and

(vii) persons constructing, repairing, and sealing elevator borings;

(2) issuance of registration for monitoring well contractors;

(3) establishment of conditions for examination and review of applications for license and registration;

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

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

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

(7) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination;

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

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

(10) establishment of criteria and procedures for submission of well and boring logs, formation samples or well or boring cuttings, water samples, or other special information required for and water resource mapping; and

(11) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 103I.005, subdivision 9.

Subd. 6. **Fees for variances.** The commissioner shall charge a nonrefundable application fee of \$235 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

**History:** 1989 c 326 art 3 s 3; 1990 c 597 s 21-23; 1991 c 355 s 9-12; 1994 c 557 s 19; 1996 c 305 art 2 s 21; 1997 c 203 art 2 s 4; 1999 c 153 s 4,5; 1Sp2001 c 9 art 1 s 3; 2002 c 379 art 1 s 113; 2005 c 106 s 16,17; 1Sp2005 c 4 art 6 s 2; 2007 c 147 art 16 s 2; 1Sp2011 c 9 art 2 s 5; 2013 c 108 art 12 s 108

### **103I.103 WASTE PREVENTION MAY BE REQUIRED.**

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

**History:** 1989 c 326 art 3 s 4

### **103I.105 ADVISORY COUNCIL ON WELLS AND BORINGS.**

(a) The Advisory Council on Wells and Borings is established as an advisory council to the commissioner. The advisory council shall consist of 18 voting members. Of the 18 voting members:

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

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

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

(4) one member must be a responsible individual for a licensed explorer;

(5) one member must be a certified representative of a licensed elevator boring contractor;

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

(7) one member must be from the Pollution Control Agency, appointed by the commissioner of the Pollution Control Agency;

(8) one member must be from the Department of Transportation, appointed by the commissioner of transportation;

(9) one member must be from the Board of Water and Soil Resources appointed by its chair;

(10) one member must be a certified representative of a monitoring well contractor;

(11) six members must be residents of this state appointed by the commissioner, who are certified representatives of licensed well contractors, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions; and

(12) one member must be a certified representative of a licensed bored geothermal heat exchanger contractor.

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

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

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

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

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059.

**History:** 1989 c 326 art 3 s 5; 1991 c 355 s 13; 1999 c 153 s 6; 2005 c 106 s 18; 2013 c 108 art 12 s 108; 2014 c 286 art 8 s 12

### **103I.111 LOCAL AUTHORITY OVER WELLS AND BORINGS.**

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

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

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

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

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

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

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

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

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

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

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

Subd. 2b. **Ordinance authority.** A political subdivision may adopt ordinances to enforce and administer powers and duties delegated under this section. The ordinances may not be inconsistent with or be less restrictive than standards in state law or rule. Ordinances adopted by the governing body of a statutory or home rule charter city or town may not be inconsistent with or be less restrictive than ordinances adopted by the county board. The commissioner shall review ordinances proposed under a delegation agreement. The commissioner shall approve ordinances if the commissioner determines the ordinances are not inconsistent with and not less restrictive than the provisions of this chapter.

Subd. 2c. **Permits.** A community health board under a delegation agreement with the commissioner may require permits in lieu of the notifications required under sections 103I.205 and 103I.301.

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

Subd. 4. **Local authority over exploratory boring.** This chapter does not limit the authority of a local unit of government to prohibit mineral exploration within its boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, that are consistent with other law.

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

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

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

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

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

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

**History:** 1989 c 326 art 3 s 6; 1990 c 597 s 24-26; 1991 c 355 s 14-17; 2005 c 106 s 19,20; 2015 c 21 art 1 s 109

**103I.112** [Repealed, 2009 c 79 art 10 s 51]

### **103I.113 APPLICABILITY TO MINING ACTIVITIES.**

The provisions of this chapter do not apply to mining activities within a mining area described in a permit to mine issued under section 93.481 except a well or boring from which water is withdrawn. The provisions of this chapter do not apply to borings made within an area for which a conditional use permit for kaolin clay extraction has been obtained from the appropriate permitting authority when the kaolin clay extraction activity will remove all of the materials in which the borings occurred except a well or boring from which water is withdrawn.

**History:** 1989 c 326 art 3 s 7; 1993 c 113 art 3 s 1

## **WELL CONSTRUCTION AND OWNERSHIP**

### **103I.115 COMPLIANCE WITH THIS CHAPTER REQUIRED.**

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

**History:** 1989 c 326 art 3 s 8; 1992 c 544 s 5; 2005 c 106 s 21

### **103I.205 WELL CONSTRUCTION.**

Subdivision 1. **Notification required.** (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 103I.208, and, when applicable, the person has met the requirements of paragraph (f). If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

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

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells unless the commissioner has delegated the permitting or notification authority under section 103I.111.

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

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

(f) When the operation of a well will require an appropriation permit from the commissioner of natural resources, a person may not begin construction of the well until the person submits the following information to the commissioner of natural resources:

(1) the location of the well;

(2) the formation or aquifer that will serve as the water source;

(3) the maximum daily, seasonal, and annual pumpage rates and volumes that will be requested in the appropriation permit; and

(4) other information requested by the commissioner of natural resources that is necessary to conduct the preliminary assessment required under section 103G.287, subdivision 1, paragraph (c).

The person may begin construction after receiving preliminary approval from the commissioner of natural resources.

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

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

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

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

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

Subd. 4. **License required.** (a) Except as provided in paragraph (b), (c), (d), or (e), section 103I.401, subdivision 2, or 103I.601, subdivision 2, a person may not drill, construct, repair, or seal a well or boring unless the person has a well contractor's license in possession.

(b) A person may construct, repair, and seal a monitoring well if the person:

(1) is a professional engineer licensed under sections 326.02 to 326.15 in the branches of civil or geological engineering;

(2) is a hydrologist or hydrogeologist certified by the American Institute of Hydrology;

(3) is a professional geoscientist licensed under sections 326.02 to 326.15;

(4) is a geologist certified by the American Institute of Professional Geologists; or

(5) meets the qualifications established by the commissioner in rule.

A person must register with the commissioner as a monitoring well contractor on forms provided by the commissioner.

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

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

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

(3) installing well pumps or pumping equipment;

(4) sealing wells;

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

(6) constructing, repairing, or sealing bored geothermal heat exchangers.

(d) A person may construct, repair, and seal an elevator boring with an elevator boring contractor's license.

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

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

(2) an individual who performs labor or services for a contractor licensed or registered under the provisions of this chapter in connection with the construction, sealing, or repair of a well or boring at the direction and under the personal supervision of a contractor licensed or registered under the provisions of this chapter; or

(3) a licensed plumber who is repairing submersible pumps or water pipes associated with well water systems if: (i) the repair location is within an area where there is no licensed or registered well contractor within 50 miles, and (ii) the licensed plumber complies with all relevant sections of the plumbing code.

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

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

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

Subd. 7. **Well identification label required.** After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number.

Subd. 8. **Wells on property of another.** A person may not construct or have constructed a well for the person's own use on the property of another until the owner of the property on which the well is to be located and the intended well user sign a written agreement that identifies which party will be responsible for obtaining all permits or filing notification, paying applicable fees and for sealing the well. If the property owner refuses to sign the agreement, the intended well user may, in lieu of a written agreement, state in writing to the commissioner that the well user will be responsible for obtaining permits, filing notification, paying applicable fees, and sealing the well. Nothing in this subdivision eliminates the responsibilities of the property owner under this chapter, or allows a person to construct a well on the property of another without consent or other legal authority.

Subd. 9. **Report of work.** Within 30 days after completion or sealing of a well or boring, the person doing the work must submit a verified report to the commissioner containing the information specified by rules adopted under this chapter.

Within 30 days after receiving the report, the commissioner shall send or otherwise provide access to a copy of the report to the commissioner of natural resources, to the local soil and water conservation district where the well is located, and to the director of the Minnesota Geological Survey.

**History:** 1989 c 326 art 3 s 9; 1990 c 597 s 28-33; 1991 c 355 s 18-23; 1992 c 507 s 22; 1994 c 557 s 20; 1999 c 153 s 7,8; 2005 c 106 s 22,23; 2013 c 108 art 12 s 108; 2013 c 114 art 4 s 74; 2014 c 312 art 23 s 1; 2015 c 54 art 1 s 1

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

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

(1) for a new water supply well, \$235, which includes the state core function fee;

(2) for a well sealing, \$65 for each well, which includes the state core function fee, except that for monitoring wells constructed on a single property, having depths within a 25 foot range, and sealed within 48 hours of start of construction, a single fee of \$65; and

(3) for construction of a dewatering well, \$235, which includes the state core function fee, for each dewatering well except a dewatering project comprising five or more dewatering wells shall be assessed a single fee of \$1,175 for the dewatering wells recorded on the notification.

Subd. 1a. **State core function fee.** The state core function fee to be collected by the state and delegated community health boards and used to support state core functions is:

(1) for a new well, \$20; and

(2) for a well sealing, \$5.

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

(1) for a water supply well that is not in use under a maintenance permit, \$175 annually;

(2) for construction of a monitoring well, \$235, which includes the state core function fee;

(3) for a monitoring well that is unsealed under a maintenance permit, \$175 annually;

(4) for a monitoring well owned by a federal agency, state agency, or local unit of government that is unsealed under a maintenance permit, \$50 annually. "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management;

(5) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the construction permit fee is \$235, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$175 per site regardless of the number of monitoring wells located on site;

(6) for a groundwater thermal exchange device, in addition to the notification fee for water supply wells, \$235, which includes the state core function fee;

(7) for a bored geothermal heat exchanger with less than ten tons of heating/cooling capacity, \$235;

(8) for a bored geothermal heat exchanger with ten to 50 tons of heating/cooling capacity, \$475;

(9) for a bored geothermal heat exchanger with greater than 50 tons of heating/cooling capacity, \$700;

(10) for a dewatering well that is unsealed under a maintenance permit, \$175 annually for each dewatering well, except a dewatering project comprising more than five dewatering wells shall be issued a single permit for \$875 annually for dewatering wells recorded on the permit; and

(11) for an elevator boring, \$235 for each boring.

**History:** 1989 c 326 art 3 s 10; 1990 c 597 s 34; 1991 c 355 s 24; 1994 c 557 s 21; 1997 c 203 art 2 s 5; 1998 c 407 art 2 s 23; 1999 c 247 s 1; 1Sp2001 c 9 art 1 s 5,6; 2002 c 379 art 1 s 113; 2005 c 106 s 24,25; 1Sp2005 c 4 art 6 s 3,4; 2007 c 147 art 16 s 3,4; 2009 c 79 art 10 s 1; 1Sp2011 c 9 art 2 s 6,7; 2013 c 108 art 12 s 108; 2015 c 21 art 1 s 109

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

### **103I.221 PLASTIC CASINGS.**

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

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

**History:** 1989 c 326 art 3 s 12

**103I.222** [Repealed, 2005 c 106 s 68]

**103I.231 COMMISSIONER MAY ORDER REPAIRS.**

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

(1) is contaminated or may contribute to the spread of contamination;

(2) is required to be sealed under this chapter and has not been sealed according to provisions of this chapter;

(3) is in a state of disrepair so that its continued existence endangers the quality of the groundwater;

(4) is a health or safety hazard; or

(5) is located in a place or constructed in a manner that its continued use or existence endangers the quality of the groundwater.

(b) The order of the commissioner may be enforced in an action to seek compliance brought by the commissioner in the district court of the county where the well or boring is located.

**History:** 1989 c 326 art 3 s 13; 1991 c 355 s 25; 2005 c 106 s 26

**103I.235 REAL PROPERTY SALE; DISCLOSURE OF LOCATION OF WELLS.**

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

(b) At the time of closing of the sale, the disclosure statement information, name and mailing address of the buyer, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well disclosure certificate need not be provided if the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.

(e) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515B.

(f) For an area owned in common under chapter 515 or 515B the association or other responsible person must report to the commissioner by July 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

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

(h) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed or other instrument of conveyance, a fee of \$50 for receipt of a completed well disclosure certificate. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health \$42.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(i) No new well disclosure certificate is required under this subdivision if the buyer or seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or other instrument of conveyance that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate. The following statement, if followed by the signature of the person making the statement, is sufficient to comply with the certification requirement of this paragraph: "I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate." The certification and signature may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement is not required for the deed or other instrument of conveyance to be recordable.

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

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

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

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

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

**History:** 1989 c 326 art 3 s 14; 1990 c 597 s 35; 1991 c 292 art 2 s 2; 1991 c 355 s 26; 1992 c 544 s 6; 1994 c 557 s 22; 1997 c 7 art 1 s 23; 1999 c 11 art 3 s 6; 1Sp2001 c 9 art 1 s 7; 2002 c 379 art 1 s 113; 1Sp2005 c 4 art 6 s 5; 2007 c 147 art 16 s 5; 2008 c 277 art 1 s 6; 1Sp2011 c 9 art 2 s 8

### 103I.236 WELL DISCLOSURE IN WASHINGTON COUNTY.

Before signing an agreement to sell or transfer real property in Washington County that is not served by a municipal water system, the seller must state in writing to the buyer whether, to the seller's knowledge, the property is located within a special well construction area designated by the commissioner of health under Minnesota Rules, part 4725.3650. If the disclosure under section 103I.235, subdivision 1, paragraph (a), states that there is an unsealed well on the property, the disclosure required under this clause must be made regardless of whether the property is served by a municipal water system.

**History:** 2003 c 128 art 1 s 170

### 103I.241 ACTION FOR WELL CONTAMINATION.

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

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

**History:** 1989 c 326 art 3 s 15

## WELL SEALING

### 103I.301 WELL SEALING REQUIREMENTS.

Subdivision 1. **Wells and borings.** (a) A property owner must have a well or boring sealed if:

(1) the well or boring is contaminated or may contribute to the spread of contamination;

(2) the well or boring was attempted to be sealed but was not sealed according to the provisions of this chapter; or

(3) the well or boring is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

(b) A well that is not in use must be sealed unless the property owner has a maintenance permit for the well.

(c) The property owner must have a well or boring sealed by a registered or licensed person authorized to seal the well or boring, consistent with provisions of this chapter.

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

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

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

Subd. 4. **Sealing procedures.** Wells and borings must be sealed according to rules adopted by the commissioner.

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

Subd. 6. **Notification required.** A person may not seal a well until a notification of the proposed sealing is filed as prescribed by the commissioner.

**History:** 1989 c 326 art 3 s 16; 1990 c 597 s 36; 1991 c 355 s 27,28; 1992 c 544 s 7,8; 1999 c 153 s 9,10

### 103I.311 IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.

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

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

Subd. 3. **Prohibition on state land purchased without well identification.** The state may not purchase or sell a fee interest in real property without identifying the location of all wells on the property, whether in use, not in use, or sealed, and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. The deed or other instrument of conveyance evidencing the sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with. Failure to comply with a requirement of this subdivision does not impair:

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

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

**History:** 1989 c 326 art 3 s 17; 1990 c 597 s 37; 1991 c 355 s 29; 2008 c 277 art 1 s 7

**103I.315 ORDERS TO SEAL WELLS AND BORINGS.**

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

(1) the commissioner determines that without being sealed the well or boring is an imminent threat to public health or public safety;

(2) the well or boring is required to be sealed under section 103I.301; or

(3) a well is a monitoring well or dewatering well and by 14 months after construction of the well, the owner has not obtained a maintenance permit, or after a maintenance permit has been issued the owner has not renewed a maintenance permit.

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

**History:** 1989 c 326 art 3 s 18; 1992 c 544 s 9

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

**103I.325 LANDOWNER SEALED WELL AND BORING LIABILITY.**

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

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

**History:** 1989 c 326 art 3 s 20; 1990 c 597 s 38; 2005 c 106 s 27

**103I.331** [Repealed, 1989 c 326 art 3 s 21, subd 6; 1994 c 557 s 23]

**103I.335 FUNDING FOR PERSONS TO SEAL WELLS.**

Subdivision 1. **Application.** A property owner who desires to seal a well may apply to the Board of Water and Soil Resources for the board to provide funds and seal the well.

Subd. 2. **Criteria for sealing.** The Board of Water and Soil Resources shall adopt criteria for accepting applications to seal wells for property owners applying under subdivision 1.

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

**History:** 1989 c 326 art 3 s 22

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

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

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

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

(b) The interest due is an additional perfected lien on the property without further action by the commissioner or the Board of Water and Soil Resources.

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

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

Subd. 5. **Appropriation of recovered costs.** Costs of sealing wells recovered from property owners by the Board of Water and Soil Resources must be deposited in the state treasury and credited to the account from which the amounts were originally appropriated. The amounts are continuously appropriated to the board for sealing wells.

**History:** 1989 c 326 art 3 s 23; 1992 c 544 s 10,11; 1997 c 7 art 1 s 24; 2005 c 4 s 27,28

**103I.345 WELL AND BORING SEALING ACCOUNT.**

Subdivision 1. **Revenue sources.** Revenue from the following sources must be deposited in the state treasury and credited to a special account:

- (1) all money recovered by the commissioner under section 103I.341;
- (2) all money paid under section 144.99 or under any agreement, stipulation, or settlement resolving an enforcement action brought by the commissioner;
- (3) all interest attributable to investment of money credited to the account; and
- (4) all money received in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the purposes of the account.

Subd. 2. **Expenditures.** Subject to appropriation by law, money in the account established under subdivision 1 may be used by the commissioner for sealing wells and borings.

**History:** 1992 c 544 s 12; 1993 c 206 s 1; 2005 c 106 s 28

## ELEVATOR BORINGS

### 103I.401 ELEVATOR BORINGS.

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

(b) The elevator boring permit preempts local permits except local building permits, and counties and home rule charter or statutory cities may not require a permit for elevator borings.

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

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

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

**History:** 1989 c 326 art 3 s 24; 1994 c 557 s 24; 1997 c 203 art 2 s 6; 2005 c 106 s 29

## ENVIRONMENTAL BORE HOLES

### 103I.451 ENVIRONMENTAL BORE HOLES.

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

**History:** 1989 c 326 art 3 s 25

## LICENSING AND REGISTRATION

### 103I.501 LICENSING AND REGULATION OF WELLS AND BORINGS.

(a) The commissioner shall regulate and license:

- (1) drilling, constructing, and repair of wells;
- (2) sealing of wells;
- (3) installing of well pumps and pumping equipment;
- (4) excavating, drilling, repairing, and sealing of elevator borings;

(5) construction, repair, and sealing of environmental bore holes; and

(6) construction, repair, and sealing of bored geothermal heat exchangers.

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

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

**History:** 1989 c 326 art 3 s 26; 1999 c 153 s 11; 2005 c 106 s 30; 2013 c 108 art 12 s 108

### **103I.505 RECIPROcity OF LICENSES AND REGISTRATIONS.**

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

(1) the requirements for licensing or registration under which the well or boring contractor was licensed or registered do not conflict with this chapter;

(2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and

(3) equal reciprocal privileges are granted to licensees or registrants of this state.

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

**History:** 1989 c 326 art 3 s 27; 2005 c 106 s 31

### **103I.515 LICENSES NOT TRANSFERABLE.**

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

**History:** 1989 c 326 art 3 s 28

### **103I.521 FEES.**

Unless otherwise specified, fees collected by the commissioner under this chapter shall be deposited in the state treasury and credited to the state government special revenue fund.

**History:** 1989 c 326 art 3 s 29; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109; 2013 c 108 art 12 s 12

### **103I.525 WELL CONTRACTOR'S LICENSE; REPRESENTATIVE'S CERTIFICATION.**

Subdivision 1. **Certification application.** (a) A person must file an application and application fee with the commissioner to represent a well contractor.

(b) The application must state the applicant's qualifications for certification as a representative, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

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

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

(2) meets the well contractor certification and license requirements under this chapter.

Subd. 2. **Certification fee.** (a) The application fee for certification as a representative of a well contractor is \$75. The commissioner may not act on an application until the application fee is paid.

(b) The renewal fee for certification as a representative of a well contractor is \$75. The commissioner may not renew a certification until the renewal fee is paid.

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

Subd. 3a. **Issuance of certification.** If an applicant meets the experience requirements established by rule and passes the examination as determined by the commissioner, the commissioner shall issue the applicant a certification to represent a well contractor.

Subd. 4. **Issuance of license.** If a person employs a certified representative, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.

Subd. 5. **Bond.** (a) As a condition of being issued a well contractor's license, the applicant, except a person applying for an individual well contractor's license, must submit a corporate surety bond for \$25,000 approved by the commissioner. The bond must be conditioned to pay the state on performance of work in this state that is not in compliance with this chapter or rules adopted under this chapter. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

Subd. 6. **License fee.** The fee for a well contractor's license is \$250, except the fee for an individual well contractor's license is \$75.

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

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

(b) The renewal application fee for a well contractor's license is \$250, except the fee for an individual well contractor's license is \$75.

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

(d) At the time of the renewal, the commissioner must have on file all properly completed well and boring construction reports, well and boring sealing reports, reports of elevator borings, water sample

analysis reports, well and boring permits, and well notifications for work conducted by the licensee since the last license renewal.

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include a late fee of \$75; and

(2) the licensee may not conduct activities authorized by the well contractor's license until the renewal application, renewal application fee, late fee, and all other information required in subdivision 8 are submitted.

**History:** 1989 c 326 art 3 s 30; 1990 c 597 s 40-42; 1991 c 355 s 31-34; 1996 c 305 art 3 s 12,13; 1999 c 250 art 3 s 10; 1Sp2001 c 9 art 1 s 8-11; 2002 c 379 art 1 s 113; 2005 c 106 s 32-37; 2007 c 124 s 1; 1Sp2011 c 9 art 2 s 9

### **103I.531 LIMITED WELL/BORING CONTRACTOR'S LICENSE; REPRESENTATIVE'S CERTIFICATION.**

Subdivision 1. **Certification application.** (a) A person must file an application and an application fee with the commissioner to represent a limited well/boring contractor.

(b) The application must state the applicant's qualifications for the certification, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. **Certification fee.** (a) The application fee for certification as a representative of a limited well/boring contractor is \$75. The commissioner may not act on an application until the application fee is paid.

(b) The renewal fee for certification as a representative of a limited well/boring contractor is \$75. The commissioner may not renew a certification until the renewal fee is paid.

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

Subd. 3a. **Issuance of certification.** If an applicant meets the experience requirements established by rule and passes the examination as determined by the commissioner, the commissioner shall issue the applicant a certification to represent a limited well/boring contractor.

Subd. 4. **Issuance of license.** If a person employs a certified representative, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited well/boring contractor's license. If the other conditions of this section are satisfied, the commissioner may not withhold issuance of a dewatering limited license based on the applicant's lack of prior experience under a licensed well contractor.

Subd. 5. **Bond.** (a) As a condition of being issued a limited well/boring contractor's license for constructing, repairing, and sealing drive point wells or dug wells, sealing wells or borings, constructing, repairing, and sealing dewatering wells, or constructing, repairing, and sealing bored geothermal heat exchangers, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. As a condition of being issued a limited well/boring contractor's license for installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper

termination of the well casing, or installing well pumps or pumping equipment, the applicant must submit a corporate surety bond for \$2,000 approved by the commissioner. The bonds required in this paragraph must be conditioned to pay the state on performance of work in this state that is not in compliance with this chapter or rules adopted under this chapter. The bonds are in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of a bond required in paragraph (a), the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

Subd. 6. **License fee.** The fee for a limited well/boring contractor's license is \$75. The fee for three or more limited well/boring contractor licenses is \$225.

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

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

(b) The renewal application fee for a limited well/boring contractor's license is \$75.

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

(d) At the time of the renewal, the commissioner must have on file all properly completed well and boring construction reports, well and boring sealing reports, well and boring permits, water quality sample reports, and well notifications for work conducted by the licensee since the last license renewal.

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include a late fee of \$75; and

(2) the licensee may not conduct activities authorized by the limited well/boring contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

**History:** 1989 c 326 art 3 s 31; 1990 c 597 s 43; 1991 c 355 s 35-37; 1996 c 305 art 3 s 14,15; 1999 c 153 s 12; 1999 c 250 art 3 s 11; 1Sp2001 c 9 art 1 s 12-15; 2002 c 379 art 1 s 113; 2005 c 106 s 38-43; 2007 c 124 s 2; 1Sp2011 c 9 art 2 s 10; 2013 c 108 art 12 s 108

**103I.533** [Repealed, 1990 c 597 s 73]

### **103I.535 ELEVATOR BORING CONTRACTOR'S LICENSE; REPRESENTATIVE'S CERTIFICATION.**

Subdivision 1. **Certification application.** (a) An individual must file an application and application fee with the commissioner to represent an elevator boring contractor.

(b) The application must state the applicant's qualifications for the certification, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. **Certification fee.** (a) The application fee for certification as a representative of an elevator boring contractor is \$75. The commissioner may not act on an application until the application fee is paid.

(b) The renewal fee for certification as a representative of an elevator boring contractor is \$75. The commissioner may not renew a certification until the renewal fee is paid.

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

Subd. 3a. **Issuance of certification.** If the applicant meets the experience requirements established by rule and passes the examination as determined by the commissioner, the commissioner shall issue the applicant a certification to represent an elevator boring contractor.

Subd. 4. **Issuance of license.** If a person employs a certified representative, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue an elevator boring contractor's license to the applicant.

Subd. 5. **Bond.** (a) As a condition of being issued an elevator boring contractor's license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on performance of work in this state that is not in compliance with this chapter or rules adopted under this chapter.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

Subd. 6. **License fee.** The fee for an elevator shaft contractor's license is \$75.

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

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

(b) The renewal application fee for an elevator boring contractor's license is \$75.

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

(d) At the time of renewal, the commissioner must have on file all reports and permits for elevator boring work conducted by the licensee since the last license renewal.

Subd. 9. **Incomplete or late renewal.** If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include a late fee of \$75; and

(2) the licensee may not conduct activities authorized by the elevator boring contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted.

**History:** 1989 c 326 art 3 s 33; 1991 c 355 s 38,39; 1996 c 305 art 3 s 16; 1997 c 7 art 1 s 25; 1999 c 250 art 3 s 12; 1Sp2001 c 9 art 1 s 16-19; 2002 c 379 art 1 s 113; 2005 c 106 s 44-51; 1Sp2011 c 9 art 2 s 11

**103I.541 MONITORING WELL CONTRACTOR'S REGISTRATION; REPRESENTATIVE'S CERTIFICATION.**

Subdivision 1. **Registration.** A person seeking registration as a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.

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

Subd. 2a. **Certification application.** (a) An individual must submit an application and application fee to the commissioner to apply for certification as a representative of a monitoring well contractor.

(b) The application must be on forms prescribed by the commissioner. The application must state the applicant's qualifications for the certification, and other information required by the commissioner.

Subd. 2b. **Issuance of registration.** If a person employs a certified representative, submits the bond under subdivision 3, and pays the registration fee of \$75 for a monitoring well contractor registration, the commissioner shall issue a monitoring well contractor registration to the applicant. The fee for an individual registration is \$75. The commissioner may not act on an application until the application fee is paid.

Subd. 2c. **Certification fee.** (a) The application fee for certification as a representative of a monitoring well contractor is \$75. The commissioner may not act on an application until the application fee is paid.

(b) The renewal fee for certification as a representative of a monitoring well contractor is \$75. The commissioner may not renew a certification until the renewal fee is paid.

Subd. 2d. **Examination.** After the commissioner has approved an application, the applicant must take an examination given by the commissioner.

Subd. 2e. **Issuance of certification.** If the applicant meets the experience requirements established by rule and passes the examination as determined by the commissioner, the commissioner shall issue the applicant a certification to represent a monitoring well contractor.

Subd. 3. **Bond.** (a) As a condition of being issued a monitoring well contractor's registration, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on performance of work in this state that is not in compliance with this chapter or rules adopted under this chapter. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

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

(b) The renewal application fee for a monitoring well contractor's registration is \$75.

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

(d) At the time of the renewal, the commissioner must have on file all well and boring construction reports, well and boring sealing reports, well permits, and notifications for work conducted by the registered person since the last registration renewal.

Subd. 5. **Incomplete or late renewal.** If a registered person submits a renewal application after the required renewal date:

(1) the registered person must include a late fee of \$75; and

(2) the registered person may not conduct activities authorized by the monitoring well contractor's registration until the renewal application, renewal application fee, late fee, and all other information required in subdivision 4 are submitted.

**History:** 1989 c 326 art 3 s 34; 1990 c 597 s 44-46; 1991 c 355 s 40,41; 1996 c 305 art 3 s 17,18; 1999 c 250 art 3 s 13; 1Sp2001 c 9 art 1 s 20-22; 2002 c 379 art 1 s 113; 2005 c 106 s 52; 1Sp2011 c 9 art 2 s 12

### **103I.545 REGISTRATION OF DRILLING MACHINES AND HOISTS REQUIRED.**

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

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$75 registration fee.

(c) A registration is valid for one year.

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

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$75 registration fee.

(c) A registration is valid for one year.

**History:** 1989 c 326 art 3 s 35; 1991 c 355 s 42; 1Sp2001 c 9 art 1 s 23; 2002 c 379 art 1 s 113; 2005 c 106 s 53

## **EXPLORATORY BORINGS**

### **103I.601 EXPLORATORY BORING PROCEDURES.**

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

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

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

(d) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer. When the exploratory borings are being done to explore or prospect for kaolin clay, "samples" means a representative sample of at least two cubic inches of material per foot from exploratory borings of the material that is customarily collected by the explorer.

**Subd. 2. License required to make borings.** (a) Except as provided in paragraph (d), a person must not make an exploratory boring without an explorer's license. The fee for an explorer's license is \$75. The explorer's license is valid until the date prescribed in the license by the commissioner.

(b) A person must file an application and renewal application fee to renew the explorer's license by the date stated in the license. The renewal application fee is \$75.

(c) If the licensee submits an application fee after the required renewal date, the licensee:

(1) must include a late fee of \$75; and

(2) may not conduct activities authorized by an explorer's license until the renewal application, renewal application fee, late fee, and sealing reports required in subdivision 9 are submitted.

(d) An explorer must designate a responsible individual to supervise and oversee the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual must file an application and application fee of \$75 to qualify as a responsible individual. The individual must take and pass an examination relating to construction, location, and sealing of exploratory borings. A professional engineer or geoscientist licensed under sections 326.02 to 326.15 or a professional geologist certified by the American Institute of Professional Geologists is not required to take the examination required in this subdivision, but must be certified as a responsible individual to supervise an exploratory boring.

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

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

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

(b) The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner of natural resources has reasonable doubts about the explorer's financial ability to comply with requirements of law relating to exploratory boring. The commissioner's determination to require assurance is exempt from the rulemaking provisions of chapter 14 and section 14.386 does not apply.

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

**Subd. 4. Map of borings.** By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the Department of Transportation, or a 7.5 minute series topographic map (1:24,000 scale), as prepared by the United States Geological Survey, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. Exploratory boring that is proposed on the map may not be commenced later than 180 days after submission of the map, unless a new map is submitted.

**Subd. 5. Access to drill sites.** The commissioners of health, natural resources, and the Pollution Control Agency, the community health board as authorized under section 145A.04, and their officers and employees

shall have access to exploratory boring sites to inspect the drill holes, drilling, and sealing of the borings, and to sample ambient air and drilling waters, and to measure the radioactivity of the waste drill cuttings at the drilling site at the time of observation.

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

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

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

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

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

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

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

(3) identification of water bearing formations encountered;

(4) identification of hydrologic conditions encountered;

(5) method of sealing used;

(6) methods of construction and drilling used; and

(7) average scintillometer reading of waste drill cuttings from uranium or other radioactive mineral exploratory borings before backfilling of the recirculation pits.

**History:** 1989 c 326 art 3 s 36; 1991 c 228 s 2; 1993 c 113 art 3 s 2; 2004 c 221 s 44; 2005 c 106 s 54,55; 1Sp2005 c 4 art 6 s 6

### **103I.605 SUBMISSION OF DATA FROM EXPLORATORY BORINGS.**

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

Subd. 2. **Mineral deposit evaluation data.** (a) In applying for a permit required for activities relating to mineral deposit evaluation, which means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and other associated activities, but does not include activities intended, by themselves, for commercial exploitation of the ore body, the explorer must submit to the commissioner of natural resources data relevant to the proposal under consideration. The

explorer may identify portions of the data that, if released, would impair the competitive position of the explorer submitting the data. Data identified must be considered to be not public data.

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

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

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

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

Subd. 4. **Exploration data.** (a) By 180 days after termination by the explorer of a lease or other type of exploration agreement on a property the data from the exploration must be submitted to the commissioner of natural resources. The data are public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others.

(b) Data that will become public under paragraph (a) may be submitted, with the prior written permission of the commissioner of natural resources, before the termination. If the data are submitted earlier than the required time, the data do not become public data until 180 days after termination by the explorer of the lease or other type of exploration agreement on the property from which the data are obtained. An explorer submitting data before the time required by paragraph (a) shall provide to the commissioner of natural resources at the time the data are submitted and every 180 days after that time, in a format designated by the commissioner of natural resources, satisfactory evidence that the lease or other type of exploration agreement is in effect. If satisfactory evidence that the mineral lease or other exploration agreement is still in effect is not provided to the commissioner of natural resources for a given 180-day period by the required date, the data immediately become public data. The explorer may waive, in writing, the data privacy requirements and agree that data submitted before the time required by paragraph (a) are public data.

(c) Upon the written request of the explorer, data submitted under paragraph (a) are nonpublic data until 180 days after termination by the explorer of: (1) all other leases or other types of exploration agreements on property located within the same government section as the property on which the exploratory boring was done, and (2) all other leases or other types of exploration agreements on property located within a government section having at least one point in common along its boundary line with the government section in which the exploratory boring was done; provided that the owner of the property on which the exploration occurred consents to the data not becoming public data.

An explorer requesting that the exploration data not become public data shall provide to the commissioner of natural resources at the time the data are submitted and every 180 days after that time, in a format designated by the commissioner of natural resources: (1) satisfactory evidence that the lease or exploration agreement that provides the basis for requesting that the data remain as not public data remains in effect, and (2) satisfactory evidence that the owner of the property upon which the exploration occurred consents to the data not becoming public data.

If either of the pieces of satisfactory evidence is not provided to the commissioner of natural resources for a given 180-day period by the required date, the data immediately become public data. The explorer may waive, in writing, the data privacy requirements and agree that the submitted data are public data.

(d) Exploration data and samples submitted under paragraphs (b) and (c) become public data no later than five years after receipt of the exploration data and samples by the commissioner of natural resources even if the lease or other type of exploration agreement described in paragraphs (b) and (c) has not terminated.

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

**History:** 1989 c 326 art 3 s 37; 1991 c 228 s 3; 1993 c 113 art 3 s 3

## GROUNDWATER THERMAL EXCHANGE DEVICES

### 103I.621 PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.

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

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

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

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

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

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

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

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

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

(2) the domestic water system is protected by an airgap or backflow prevention device as described in rules relating to plumbing enforced by the commissioner of labor and industry.

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

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

**History:** 1989 c 326 art 3 s 38; 1991 c 355 s 43; 2007 c 140 art 12 s 2

## BORED GEOTHERMAL HEAT EXCHANGERS

### 103I.641 BORED GEOTHERMAL HEAT EXCHANGERS.

Subdivision 1. **Requirements.** A person may not drill or construct an excavation used to install a bored geothermal heat exchanger unless the person is a limited well/boring contractor licensed for constructing, repairing, and sealing bored geothermal heat exchangers or a well contractor.

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

Subd. 3. **Permit required.** (a) A bored geothermal heat exchanger may not be installed without first obtaining a permit for the bored geothermal heat exchanger from the commissioner. A limited well/boring contractor licensed for constructing, repairing, and sealing bored geothermal heat exchangers or a well contractor must apply for the permit on forms provided by the commissioner and must pay the permit fee.

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

**History:** 1989 c 326 art 3 s 39; 1999 c 153 s 13,14; 2013 c 108 art 12 s 108

## UNDERGROUND SPACE DEVELOPMENT

### 103I.661 MINED UNDERGROUND SPACE DEVELOPMENT.

Subdivision 1. **Commissioner of natural resources review.** The commissioners of natural resources and health shall review all project plans that involve dewatering of underground formations for construction

and operation of mined underground space to determine the effects of the proposal on the quality and quantity of underground waters in and adjacent to the areas where the mined underground space is to be developed.

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

**History:** 1989 c 326 art 3 s 40

## UNDERGROUND STORAGE OF GAS OR LIQUID

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) private property or an interest not appropriated;

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

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

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

- (1) the applicant;
- (2) parties who entered an appearance at the hearing;
- (3) the county auditor; and
- (4) the chief executive officer of an affected municipality.

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

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

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

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

(c) The fee schedule may provide for the refund of a fee, in whole or in part, under circumstances prescribed by the commissioner of natural resources. Fees received must be deposited in the state treasury and credited to an account in the natural resources fund. Permit fees received are appropriated annually from the natural resources fund to the commissioner of natural resources for the costs of inspecting and monitoring the activities authorized by the permit, including costs of consulting services.

**History:** 1989 c 326 art 3 s 41; 1990 c 597 s 47; 1Sp2005 c 1 art 2 s 124; 1Sp2010 c 1 art 14 s 6

### **103I.685 ABANDONMENT OF UNDERGROUND STORAGE PROJECT.**

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

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

### **103I.691 CERTIFICATE OF USE.**

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

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

**103I.701** [Repealed, 1993 c 206 s 25]

**103I.705** [Repealed, 1993 c 206 s 25]

## ENFORCEMENT

### 103I.711 IMPOUNDING OF EQUIPMENT.

Subdivision 1. **Impoundment.** The commissioner may apply to district court for a warrant authorizing seizure and impoundment of all drilling machines or hoists owned or used by a person. The court shall issue an impoundment order upon the commissioner's showing that a person is constructing, repairing, or sealing wells or borings or installing pumps or pumping equipment or excavating holes for installing elevator shafts without a license or registration as required under this chapter. A sheriff on receipt of the warrant must seize and impound all drilling machines and hoists owned or used by the person. A person from whom equipment is seized under this subdivision may file an action in district court for the purpose of establishing that the equipment was wrongfully seized.

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

**History:** 1989 c 326 art 3 s 46; 1991 c 355 s 50

### 103I.715 CRIMINAL PENALTIES.

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

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

(1) willfully violates a provision of this chapter or order of the commissioner;

(2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator shafts without a license required by this chapter; or

(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter.

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

**History:** 1989 c 326 art 3 s 47