

## CHAPTER 18C

### FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT LAW

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#### 18C.001 CITATION.

This chapter may be cited as the "Fertilizer, Soil Amendment, and Plant Amendment Law."

*History: 1989 c 326 art 6 s 1*

#### 18C.005 DEFINITIONS.

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

Subd. 1a. [Repealed, 2005 c 136 art 7 s 22]

Subd. 2. **Best management practices.** "Best management practices" means practices, techniques, and measures developed under section 103H.151, subdivision 2.

Subd. 3. **Brand.** "Brand" means a term, design, or trademark used in connection with one or several grades of fertilizers or soil and plant amendment materials.

Subd. 4. **Chemigation.** "Chemigation" means a process of applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **Compost.** "Compost" is a biologically stable material derived from the composting process.

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Subd. 6a. **Composting.** "Composting" is the biological decomposition of organic matter. It is accomplished by mixing and piling in such a way as to promote aerobic or anaerobic decay or both. The process inhibits pathogens, viable weed seeds, and odors.

Subd. 7. **Custom apply.** "Custom apply" means to apply a fertilizer, soil amendment, or plant amendment product for compensation.

Subd. 7a. **Custom blend fertilizer.** "Custom blend fertilizer" means a fertilizer blended according to the specifications that are furnished to a distributor by a consumer prior to blending.

Subd. 8. **Deficiency.** "Deficiency" means that amount of nutrient found by analysis is less than the amount guaranteed resulting from a lack of nutrient ingredients or from lack of uniformity.

Subd. 9. **Distributor.** "Distributor" means a person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer, or who offers for sale, sells, barter, or otherwise supplies fertilizer or soil and plant amendments in this state.

Subd. 10. **Environment.** "Environment" means surface water, groundwater, air, land, plants, humans, and animals and their interrelationships.

Subd. 11. **Fertilizer.** "Fertilizer" means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.

Subd. 12. **Fixed location.** "Fixed location" means all stationary fertilizer facility operations, owned or operated by a person, located in the same plant location or locality.

Subd. 12a. **Genetic engineering.** "Genetic engineering" means the modification of the genetic composition of an organism using molecular techniques. This does not include selective breeding, hybridization, or nondirected mutagenesis.

Subd. 12b. **Genetically engineered fertilizer.** "Genetically engineered fertilizer" means an organism that has been modified through the use of genetic engineering, containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Genetically engineered fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.

Subd. 12c. **Genetically engineered plant amendment.** "Genetically engineered plant amendment" means an organism that has been modified through the use of genetic engineering, and that when applied to plants or seeds is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule.

Subd. 12d. **Genetically engineered soil amendment.** "Genetically engineered soil amendment" means an organism that has been modified directly or indirectly using genetic engineering, intended to improve the physical characteristics of the soil for agricultural production, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by rule.

Subd. 13. **Grade.** "Grade" means the percentage of total nitrogen (N), available phosphate ( $P_2O_5$ ), and soluble potash ( $K_2O$ ) stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis except the grade of custom blends and their raw materials, bone meals, manures, and similar raw materials may be stated in fractional units, and specialty fertilizers may be stated in fractional units of less than one percent of total nitrogen, available phosphate, and soluble potash.

Subd. 14. **Guarantor.** "Guarantor" means the person who is guaranteeing the material to be as stated in the guaranteed analysis.

Subd. 15. **Incident.** "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, portable container rupture, leak, spill, emission, discharge, es-

cape, disposal, or other event that releases or immediately threatens to release a fertilizer, soil amendment, or plant amendment accidentally or otherwise into the environment, and may cause unreasonable adverse effects on the environment. Incident does not include a release resulting from the normal use of a product or practice in accordance with law.

Subd. 16. **Investigational allowance.** “Investigational allowance” means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

Subd. 17. **Label.** “Label” means the display of all written, printed or graphic matter upon the immediate container or the statement accompanying a fertilizer, soil amendment, or plant amendment.

Subd. 18. **Labeling.** “Labeling” means all written, printed or graphic matter on or accompanying a fertilizer, soil amendment, or plant amendment or advertisements, brochures, posters, television, radio or other announcements used in promoting the sale of fertilizers, soil amendments, or plant amendments.

Subd. 18a. **Local unit of government.** “Local unit of government” has the meaning given in section 18B.01, subdivision 14a.

Subd. 19. **Manipulated.** “Manipulated” means fertilizers that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.

Subd. 20. **Mobile mechanical unit.** “Mobile mechanical unit” means a portable machine or apparatus used to manufacture fertilizers.

Subd. 21. **Official sample.** “Official sample” means a sample of fertilizer, soil amendment, or plant amendment taken by the commissioner according to methods prescribed by this chapter or by rule.

Subd. 22. **Organic fertilizer.** “Organic fertilizer” means a material containing carbon and one or more elements other than hydrogen and oxygen essential for plant growth.

Subd. 22a. **Organism.** “Organism” means an animal, plant, bacterium, cyanobacterium, fungus, protist, or virus.

Subd. 23. **Percent; percentage.** “Percent” or “percentage” means the percentage by weight.

Subd. 24. **Person.** “Person” means an individual, firm, corporation, partnership, association, trust, joint stock company, or unincorporated organization, the state, a state agency, or a political subdivision.

Subd. 25. **Plant amendment.** “Plant amendment” means a substance applied to plants or seeds that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, soil amendments, agricultural liming materials, pesticides, and other materials that are exempted by rule.

Subd. 26. **Plant food.** “Plant food” means a plant nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

Subd. 27. **Registrant.** “Registrant” means the person who registers fertilizer, soil amendment, or plant amendment under this chapter.

Subd. 27a. **Release.** “Release” means the placement or use of a genetically engineered organism outside a contained laboratory, greenhouse, building, structure, or other similar facility or under other conditions not specifically determined by the commissioner to be adequately contained.

Subd. 28. **Rinsate.** “Rinsate” means a dilute mixture of a fertilizer or fertilizer with water, solvents, oils, commercial rinsing agents, or other substances.

Subd. 29. **Safeguard.** “Safeguard” means a facility, equipment, device, or system, individually or in combination, designed to prevent an incident as required by rule.

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Subd. 30. **Sell.** "Sell," in reference to the sale of fertilizer, soil amendment, or plant amendment, includes:

- (1) the act of selling, transferring ownership;
- (2) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (3) the possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (4) the storing, carrying, and handling in aid of trafficking fertilizers, plant amendments, or soil amendments, whether done in person or through an agent, employee or others; and
- (5) receiving, accepting, and holding of consignment for sale.

Subd. 31. **Sewage sludge.** "Sewage sludge" means the solids and associated liquids in municipal wastewater that are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

Subd. 32. **Site.** "Site" includes land and water areas, air space, and plants, animals, structures, buildings, contrivances, and machinery, whether fixed or mobile, including anything used for transportation.

Subd. 33. **Soil amendment.** "Soil amendment" means a substance intended to improve the structural, physical, or biological characteristics of the soil or modify organic matter at or near the soil surface, except fertilizers, agricultural liming materials, pesticides, and other materials exempted by the commissioner's rules.

Subd. 34. **Specialty fertilizer.** "Specialty fertilizer" means a fertilizer labeled and distributed for, but not limited to, the following uses: greenhouses, nurseries, home gardens, house plants, lawn fertilizer, shrubs, golf courses, municipal parks, and cemeteries.

Subd. 35. **Substantially altering; substantially alter; substantial alteration.** "Substantially altering," "substantially alter," or "substantial alteration" means modifying a bulk agricultural chemical storage facility by:

- (1) changing the capacity of a safeguard;
- (2) adding storage containers in excess of the capacity of a safeguard as required by rule;
- (3) increasing the size of the largest storage container in a safeguard as approved or permitted by the commissioner of agriculture; or
- (4) adding or changing anhydrous ammonia storage containers or adding ammonia loading or unloading stations. This does not include routine maintenance of safeguards, storage containers, appurtenances, piping, or existing mixing, blending, weighing, or handling equipment. For dry bulk fertilizer, a person may decrease storage capacity without a substantial alteration permit and may increase storage capacity up to 150 tons per location annually without a substantial alteration permit.

Subd. 35a. [Repealed, 2005 c 136 art 7 s 22]

Subd. 36. **Ton.** "Ton" means a net ton of 2,000 pounds avoirdupois.

Subd. 37. **Unreasonable adverse effects on the environment.** "Unreasonable adverse effects on the environment" means an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a fertilizer.

Subd. 38. **Wildlife.** "Wildlife" means living things that are not human, domesticated, or pests.

**History:** 1989 c 326 art 6 s 2; 1991 c 250 s 11-16; 1993 c 367 s 11,12; 1996 c 330 s 8-14; 2000 c 477 s 9-12; 2002 c 345 s 1

## GENERAL PROVISIONS

**18C.105** [Repealed, 1996 c 310 s 1]

**18C.110 PREEMPTION OF LOCAL LAW.**

(a) Except as specifically provided in this chapter, a local unit of government may not adopt or enforce any ordinance that prohibits or regulates, and may not in any other way prohibit or regulate, the distribution, sale, handling, use, or application of phosphorous fertilizers and phosphorous fertilizer products that are applied or will be applied to land used for growing crops or any other agricultural use.

(b) Except as specifically provided in this chapter, a local unit of government may not adopt or enforce any ordinance that prohibits or regulates the registration, labeling, distribution, sale, handling, use, application, or disposal of turf fertilizer containing phosphorus.

(c) This section does not prohibit a local ordinance that restricts the sale of turf phosphorous fertilizer that was in effect on August 1, 2002.

(d) This section does not preempt local authority or responsibility for zoning, fire codes, or hazardous waste disposal.

(e) Paragraphs (a) and (d) are effective April 20, 2002. Paragraphs (b) and (c) are effective January 1, 2004.

**History:** 2002 c 345 s 2; 2002 c 400 s 2

**18C.111 POWERS AND DUTIES OF COMMISSIONER.**

Subdivision 1. **Administration by commissioner.** The commissioner shall administer, implement, and enforce this chapter and the Department of Agriculture is the lead state agency for the regulation of fertilizer, including storage, handling, distribution, use, and disposal of fertilizer.

Subd. 2. **Delegation of duties.** The commissioner may delegate duties under this chapter to designated employees or agents of the Department of Agriculture.

Subd. 3. **Delegation to approved agencies.** The commissioner may, by written agreements, delegate specific inspection, enforcement, and other regulatory duties of this chapter to officials of other agencies. The delegation may only be made to a state agency, a political subdivision, or a political subdivision's agency that has signed a joint powers agreement with the commissioner as provided in section 471.59.

**History:** 1989 c 326 art 6 s 4

**18C.115 ADOPTION OF NATIONAL STANDARDS.**

Subdivision 1. **Policy of uniformity.** It is the policy of this state to achieve and maintain uniformity as much as possible with national standards and with other states in the regulation and control of the manufacture, distribution, and sale of fertilizer in this state.

Subd. 2. **Adoption of national standards.** Applicable national standards contained in the 1996 official publication, number 49, of the Association of American Plant Food Control Officials including the rules and regulations, statements of uniform interpretation and policy, and the official fertilizer terms and definitions, and not otherwise adopted by the commissioner, may be adopted as fertilizer rules of this state.

**History:** 1989 c 326 art 6 s 5; 1993 c 367 s 13; 1996 c 330 s 15

**18C.121 RULES.**

Subdivision 1. **Administration.** The commissioner may adopt rules necessary to implement and enforce this chapter. The rules must conform to national standards in a manner that is practicable and consistent with state law.

Subd. 2. **Liming materials.** The commissioner may adopt rules governing the labeling, registration, and distribution of liming materials sold for agricultural purposes.

Subd. 3. **Certification of laboratories.** The commissioner may adopt rules establishing procedures and requirements for certification of soil and plant food testing laboratories operating in or outside of the state for the benefit of state residents. The rules shall include but not be limited to standardization of procedures and recommendations relating to application

of plant food materials. Basic data and reference material for establishment of rules will include but not be limited to findings of the University of Minnesota soil testing laboratory.

Subd. 4. **Hearings.** Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates.

**History:** 1989 c 326 art 6 s 6; 1997 c 7 art 5 s 1

#### **18C.131 FERTILIZER INSPECTION ACCOUNT.**

A fertilizer inspection account is established in the state treasury. The fees collected under this chapter and interest attributable to money in the account must be deposited in the state treasury and credited to the fertilizer inspection account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner for the administration and enforcement of this chapter.

**History:** 1989 c 326 art 6 s 7; 1993 c 172 s 24; 1999 c 231 s 40

#### **18C.135 APPLICATION OF REQUIREMENTS TO SEWAGE SLUDGE AND COMPOST.**

Subdivision 1. **Sewage sludge without charge exempt.** Sewage sludge that is transferred between parties without compensation is exempt from the requirements of this chapter except the labeling requirements of this chapter.

Subd. 2. **Sewage sludge analysis meets labeling requirements.** A copy of the sewage sludge analysis required by the rules of the Pollution Control Agency is sufficient to meet the labeling requirements.

Subd. 3. **Compost without charge exempt.** Compost that is transferred between parties without compensation is exempt from all requirements of this chapter.

**History:** 1989 c 326 art 6 s 8

#### **18C.141 SOIL AND MANURE TESTING LABORATORY CERTIFICATION.**

Subdivision 1. **Program establishment.** The commissioner shall establish voluntary programs to certify the accuracy of analyses from soil and manure testing laboratories and promote standardization of soil and manure testing procedures and analytical results.

Subd. 2. **Check sample system.** (a) The commissioner shall institute a system of check samples that requires a laboratory to be certified to analyze at least two multiple soil or manure check samples during the calendar year. The samples must be supplied by the commissioner or by a person under contract with the commissioner to prepare and distribute the samples.

(b) Within 30 days after the laboratory receives check samples, the laboratory shall report to the commissioner the results of the analyses for all requested elements or compounds or for the elements or compounds the laboratory makes an analytical determination of as a service to others.

(c) The commissioner shall compile analytical data submitted by laboratories and provide laboratories submitting samples with a copy of the data without laboratory names or code numbers.

(d) The commissioner may conduct check samples on laboratories that are not certified.

Subd. 3. **Analyses reporting standards.** (a) The results obtained from soil, manure, or plant analysis must be reported in accordance with standard reporting units established by the commissioner by rule. The standard reporting units must conform as far as practical to uniform standards that are adopted on a regional or national basis.

(b) If a certified laboratory offers a recommendation for use in Minnesota, the University of Minnesota recommendation or that of another land grant college in a contiguous state must be offered in addition to other recommendations, and the source of the recommendation must be identified on the recommendation form. If relative levels such as low, medium, or high are presented to classify the analytical results, the corresponding relative levels based

on the analysis as designated by the University of Minnesota or the land grant college in a contiguous state must also be presented.

Subd. 4. **Revocation of certification.** If the commissioner determines that analysis being performed by a laboratory is inaccurate as evidenced by check sample results, the commissioner may deny, suspend, or revoke certification.

Subd. 5. **Fees.** (a) The commissioner may charge the actual costs for check sample preparation and shipping.

(b) A laboratory applying for certification may be charged a nonrefundable certification fee to cover the actual costs for administration of the program.

(c) Certification is renewable on an annual basis. The commissioner shall notify a certified lab that its certification lapses within 30 to 60 days of the date when the certification lapses.

(d) The commissioner may accept donations to support the development and operation of soil and manure programs.

(e) Revenues under this section are deposited in the fertilizer account of the agricultural fund.

Subd. 6. **Rules.** The commissioner shall adopt rules for the establishment of minimum standards for laboratories, equipment, procedures, and personnel used in soil and manure analysis and rules necessary to administer and enforce this section. The commissioner shall consult with representatives of the fertilizer industry, representatives of the laboratories doing business in this state, and with the University of Minnesota College of Agriculture before proposing rules.

*History: 1989 c 326 art 6 s 9; 1998 c 401 s 16; 1Sp2005 c 1 art 1 s 23–25*

## SALE, USE, AND STORAGE

### 18C.201 PROHIBITED FERTILIZER ACTIVITIES.

Subdivision 1. **Storage, handling, distribution, or disposal.** A person may not store, handle, distribute, or dispose of a fertilizer, rinsate, fertilizer container, or fertilizer application equipment in a manner:

(1) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife;

(2) that will cause unreasonable adverse effects on the environment; or

(3) that will cause contamination of public or other waters of the state, as defined in section 103G.005, subdivisions 15 and 17, from backsiphoning or backflowing of fertilizers through water wells or from the direct flowage of fertilizers.

Subd. 2. **Use of public water supplies for filling equipment.** A person may not fill fertilizer application equipment directly from a public water supply, as defined in section 144.382, unless the outlet from the public water supply is equipped with a backflow prevention device that complies with Minnesota Rules, parts 4715.2000 to 4715.2280.

Subd. 3. **Use of public waters for filling equipment.** A person may not fill fertilizer application equipment directly from public or other waters of the state, as defined in section 103G.005, subdivisions 15 and 17, unless the equipment contains proper and functioning anti-backsiphoning mechanisms.

Subd. 4. **Cleaning equipment in or near surface water.** A person may not:

(1) clean fertilizer application equipment in surface waters of the state; or

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

Subd. 5. **Fertilizer, rinsate, and container disposal.** A person may only dispose of fertilizer, rinsate, and fertilizer containers in accordance with this chapter. The manner of disposal must not cause unreasonable adverse effects on the environment.

Subd. 6. [Repealed, 2005 c 136 art 7 s 22]

Subd. 7. [Repealed, 2005 c 136 art 7 s 22]

**History:** 1989 c 326 art 6 s 10; 1990 c 391 art 10 s 3; 2000 c 477 s 13,14

### 18C.205 CHEMIGATION.

Subdivision 1. **Authorization.** The commissioner may issue chemigation permits for irrigation to be used to apply fertilizers on crops and land, including agricultural, nursery, turf, golf course, and greenhouse sites.

Subd. 2. **Permit required.** A person may not apply fertilizers through an irrigation system without a chemigation permit from the commissioner. A chemigation permit is required for one or more wells or other sources of irrigation water that are protected from contamination by the same devices as required by rule.

Subd. 3. **Application.** (a) A person must apply for a chemigation permit on forms prescribed by the commissioner.

(b) A person initially applying for a chemigation permit must pay a nonrefundable application fee of \$50. A person who holds a valid pesticide chemigation permit as required in chapter 18B is exempt from the fee in this subdivision.

Subd. 4. **Permit requirements.** An irrigation system operating under a chemigation permit must be fitted with effective antisiphon devices or check valves that prevent the backflow of fertilizers or fertilizer-water mixtures into water supplies or other materials during times of irrigation system failure or equipment shutdown. The devices or valves must be installed between:

(1) the irrigation system pump or other source discharge and the point of fertilizer injection; and

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

Subd. 5. **Rules.** The commissioner shall adopt rules prescribing conditions and restrictions for applying fertilizers by irrigation.

**History:** 1989 c 326 art 6 s 11; 1990 c 597 s 5

### 18C.211 GUARANTEED ANALYSIS.

Subdivision 1. **N, P, and K nutrient content stated.** (a) Until the commissioner prescribes the alternative form of guaranteed analysis, it must be stated as provided in this subdivision.

(b) A guaranteed analysis must state the percentage of plant nutrient content, if claimed, in the following form:

|  |              |
|--|--------------|
| “Total Nitrogen (N)                                  | ... percent  |
| Available Phosphate (P <sub>2</sub> O <sub>5</sub> ) | ... percent  |
| Soluble Potash (K <sub>2</sub> O)                    | ... percent” |

(c) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, the total phosphate or degree of fineness may also be stated.

Subd. 2. **Guarantees of the nutrients.** (a) A person may guarantee plant nutrients other than nitrogen, phosphorus, and potassium only if allowed or required by commissioner’s rule.

(b) The guarantees for the plant nutrients must be expressed in the elemental form.

(c) The sources of other elements, oxides, salt, and chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the commissioner and with the advice of the director of the agricultural experiment station.



(d) If plant nutrients or other substances or compounds are guaranteed, the plant nutrients are subject to inspection and analyses in accord with the methods and rules prescribed by the commissioner.

(e) The commissioner may, by rule, require the potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.

(f) The plant nutrients in a specialty fertilizer must not be below or exceed the guaranteed analysis by more than the investigational allowances established by rule.

Subd. 3. [Repealed, 1993 c 367 s 41]

Subd. 4. **Guaranteed analysis of soil or plant amendment.** The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed.

**History:** 1989 c 326 art 6 s 12; 1993 c 367 s 14; 2002 c 345 s 3

### 18C.215 FERTILIZER LABELING.

Subdivision 1. **Packaged fertilizers.** (a) A person may not sell or distribute specialty fertilizer in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the following information:

- (1) the net weight;
- (2) the brand and grade, except the grade is not required if primary nutrients are not claimed;
- (3) the guaranteed analysis;
- (4) the name and address of the guarantor;
- (5) directions for use, except directions for use are not required for custom blend specialty fertilizers; and
- (6) a derivatives statement.

(b) A person may not sell or distribute fertilizer for agricultural purposes in bags or other containers in this state unless a label is placed on or affixed to the bag or container stating in a clear, legible, and conspicuous form the information listed in paragraph (a), clauses (1) to (4), except:

- (1) the grade is not required if primary nutrients are not claimed; and
- (2) the grade on the label is optional if the fertilizer is used only for agricultural purposes and the guaranteed analysis statement is shown in the complete form as in section 18C.211.

(c) The labeled information must appear:

- (1) on the front or back side of the container;
- (2) on the upper one-third of the side of the container;
- (3) on the upper end of the container; or
- (4) printed on a tag affixed to the upper end of the container.

(d) If a person sells a custom blend specialty fertilizer in bags or other containers, the information required in paragraph (a) must either be affixed to the bag or container as required in paragraph (c) or be furnished to the customer on an invoice or delivery ticket in written or printed form.

Subd. 2. **Blended, mixed, bulk, and custom applied fertilizer.** (a) A distributor who blends or mixes fertilizer or distributes fertilizer, for agricultural use, in bulk, must furnish each purchaser with an invoice or delivery ticket in written or printed form showing:

- (1) the net weight and guaranteed analysis of each of the materials used in the mixture and the name and address of the guarantor; or
- (2) the net weight and guaranteed analysis of the final mixture and the name and address of the guarantor.

(b) A person may not custom apply specialty fertilizer in this state unless a label, invoice, or delivery ticket is given to each purchaser stating in a clear, legible, and conspicuous form the following information:

(1) the net weight, which may be listed as the total net weight applied or the net weight applied per unit treated;

(2) the guaranteed analysis;

(3) the name and address of the guarantor;

(4) the number of units treated in square feet, acres, or another unit of measure; and

(5) a derivative statement.

(c) Copies of invoices or delivery tickets must be kept for five years after the sale, delivery, or application.

**Subd. 2a. Information to customer.** If a person sells a custom blend specialty fertilizer in bulk, the information required in subdivision 1, paragraph (a), must be furnished to the customer on an invoice or delivery ticket in written or printed form.

**Subd. 3.** [Repealed, 1993 c 367 s 41]

**Subd. 4. Plant food content must be uniform.** The plant food content of a given lot of fertilizer must remain uniform and may not become segregated within the lot.

**Subd. 5. Fertilizer in bulk storage.** Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis.

**History:** 1989 c 326 art 6 s 13; 1993 c 367 s 15; 1996 c 330 s 16,17; 2000 c 477 s 15-17

#### **18C.221 FERTILIZER PLANT FOOD CONTENT.**

(a) Products that are deficient in plant food content are subject to this subdivision.

(b) An analysis must show that a fertilizer is deficient:

(1) in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by regulation; or

(2) if the overall index value of the fertilizer is shown below the level established by rule.

(c) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.

(d) For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.

(e) If a fertilizer in the possession of the consumer is found by the commissioner to be short in weight, the registrant or licensee of the fertilizer must submit a penalty payment of two times the value of the actual shortage to the consumer within 30 days after official notice from the commissioner.

**History:** 1989 c 326 art 6 s 14

#### **18C.225 MISBRANDED PRODUCTS.**

**Subdivision 1. Sale and distribution prohibited.** A person may not sell or distribute a misbranded fertilizer, soil amendment, or plant amendment.

**Subd. 2. Factors causing misbranding.** A fertilizer, soil amendment, or plant amendment is misbranded if:

(1) it carries a false or misleading statement on the container, on the label attached to the container; or

(2) false or misleading statements concerning the fertilizer, soil amendment, or plant amendment are disseminated in any manner or by any means.

**History:** 1989 c 326 art 6 s 15

**18C.231 ADULTERATION.**

Subdivision 1. **Sale and distribution prohibited.** A person may not sell or distribute an adulterated fertilizer, soil amendment, or plant amendment product.

Subd. 2. **Factors causing adulteration.** A fertilizer, soil amendment, or plant amendment is adulterated if:

(1) it contains a deleterious or harmful ingredient in an amount to render it injurious to plant life if applied in accordance with directions for use on the label;

(2) the composition falls below or differs from that which the product is purported to possess by its labeling; or

(3) the product contains unwanted crop seed or weed seed.

Subd. 3. **Certain adulterated products must be disposed.** Adulterated products that cannot be reconditioned must be disposed of according to methods approved by the commissioner.

**History:** 1989 c 326 art 6 s 16

**FACILITIES****18C.235 CONTINGENCY PLAN FOR STORAGE OF BULK PRODUCTS.**

Subdivision 1. **Plan required.** A person who stores fertilizers, soil amendment, or plant amendment products in bulk must develop and maintain a contingency plan that describes the storage, handling, disposal, and incident handling practices.

Subd. 2. **Plan availability.** (a) The plan must be kept at a principal business site or location within this state and must be submitted to the commissioner upon request.

(b) The plan must be available for inspection by the commissioner.

**History:** 1989 c 326 art 6 s 17

**18C.301 MIXING PESTICIDE WITH FERTILIZER, SOIL AMENDMENT, OR PLANT AMENDMENT.**

A distributor who blends, mixes, or otherwise adds pesticides to fertilizers, soil amendments, or plant amendments must:

(1) be licensed under section 18C.415; and

(2) comply with the provisions of chapter 18B and the federal Insecticide, Fungicide and Rodenticide Act, Public Law 92-516, as amended.

**History:** 1989 c 326 art 6 s 18

**18C.305 FERTILIZER FACILITIES.**

Subdivision 1. **Construction permit.** A person must obtain a permit from the commissioner on forms provided by the commissioner before the person constructs or substantially alters:

(1) safeguards; or

(2) an existing facility used for the distribution, handling, or bulk storage of fertilizers, soil amendments, or plant amendments. The commissioner may not grant a permit for a site without safeguards that are adequate to prevent the escape or movement of the fertilizers from the site.

Subd. 2. **Permit fees.** (a) An application for a new facility must be accompanied by a nonrefundable application fee of \$100 for each location where fertilizer is stored.

(b) An application to substantially alter a facility must be accompanied by a nonrefundable \$50 fee.

(c) An additional fee of \$250 must be paid by a person who begins construction of, or substantially alters a bulk agricultural chemical storage facility before a permit is issued by the commissioner, except that the \$250 additional fee may not be assessed if the person sub-

mits a permit application with the required fee to the commissioner before completing the construction or substantial alteration.

(d) An application for a facility that includes both fertilizers, as regulated under this chapter, and pesticides as regulated under chapter 18B shall pay only one application fee of \$100.

**History:** 1989 c 326 art 6 s 19; 1990 c 597 s 6; 1993 c 367 s 16

### **18C.310 GENETICALLY ENGINEERED FERTILIZER, GENETICALLY ENGINEERED SOIL AMENDMENT, OR GENETICALLY ENGINEERED PLANT AMENDMENT PERMIT.**

**Subdivision 1. Requirement.** A person may not conduct a release of a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment in any amount in the state until a permit for the release has been obtained from the commissioner under this section, a registration has been obtained under section 18C.411, or a license has been obtained under section 18C.415. A release of a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment must have a permit under this section until the commissioner determines by rule or order that the release may be subject to sections 18C.411 and 18C.415, or is otherwise exempt from this section. Each new release requires a new permit.

**Subd. 2. Permit application and review.** (a) After reviewing a completed application, the commissioner may issue a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit if the commissioner determines that the applicant has adequately demonstrated that the proposed release does not have the potential for unreasonable adverse effects on the environment. The commissioner may prescribe terms and conditions including, but not limited to, the period for the genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit, the amount or number of genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment to be used, monitoring activities, department inspection schedules, reporting of experiment results, and experiment termination procedures. A person may not violate terms or conditions of a permit issued under this section. After a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit is issued, the commissioner may revoke or change the permit at any time if the commissioner finds that its terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

(b) The commissioner may deny issuance of a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit if the commissioner determines that the use to be made of the genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

**Subd. 3. Application.** A person shall file an application for a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit with the commissioner. An application for a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit must include:

- (1) the name and address of the applicant;
- (2) any United States Environmental Protection Agency, United States Department of Agriculture, or other federal agency regulatory application or approval document, if required under federal law or rule;
- (3) the purpose or objectives of the product;
- (4) the name, address, and telephone number of cooperators or participants in this state;

- (5) the amount of material to be shipped or used in this state; and
- (6) other information requested by the commissioner.

**History:** 1991 c 250 s 17

## REGISTRATION AND LICENSING

### 18C.401 GENERAL LICENSING AND REGISTRATION CONDITIONS.

Subdivision 1. **Substantiation of claims.** The commissioner may require a person applying for a license or registration to manufacture or distribute a product for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. The commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota as evidence to substantiate claims and may accept or reject additional sources of evidence in evaluating a fertilizer, soil amendment, or plant amendment. The experimental evidence must relate to conditions in this state for which the product is intended. The commissioner may also require evidence of value when used as directed or recommended.

Subd. 2. **Insufficient evidence.** If the commissioner determines that the evidence submitted does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate the product's performance and usefulness.

Subd. 3. **Refusal to license or register.** The commissioner may refuse to license a person or register a specialty fertilizer, soil amendment, or plant amendment if:

- (1) the application for license or registration is not complete;
- (2) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents will not or is not likely to produce the results or effects claimed if used as directed;
- (3) the commissioner determines that the fertilizer, soil amendment, plant amendment, or other additive with substantially the same contents is not useful in this state; or
- (4) the facility does not properly safeguard for bulk storage.

Subd. 4. **Conditional license and registration.** (a) After reviewing an application accompanied by the application fee, the commissioner may issue a conditional license or registration:

- (1) to prevent unreasonable adverse effects on the environment; or
- (2) if the commissioner determines that the applicant needs the license or registration to accumulate information necessary to substantiate claims; or
- (3) to correct minor label violations.

(b) The commissioner may prescribe terms, conditions, and a limited period of time for the conditional license or registration.

(c) The commissioner may revoke or modify a conditional license or registration if the commissioner finds that the terms or conditions are being violated or are inadequate to avoid unreasonable adverse effects on the environment.

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

Subd. 5. **Fertilizer containing arsenic.** The commissioner may not license or register for sale or use in Minnesota any fertilizer containing more than 500 parts per million by weight of arsenic.

**History:** 1989 c 326 art 6 s 20; 2003 c 33 s 1

**18C.405 PROTECTION OF TRADE SECRETS.**

Subdivision 1. **Notation of protected information.** In submitting data required by this chapter, the applicant may:

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

Subd. 2. **Protection of information by commissioner.** (a) After consideration of the applicant's request submitted under subdivision 1, the commissioner may not allow the information to become public that the commissioner determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the commissioner.

(b) If the commissioner proposes to release information that the applicant or registrant believes to be protected from disclosure under paragraph (a), the commissioner must notify the applicant or registrant by certified mail. The commissioner may not make the information available for inspection until 30 days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may begin an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

**History:** 1989 c 326 art 6 s 21

**18C.411 REGISTRATION OF SPECIALTY FERTILIZERS, SOIL AMENDMENTS, AND PLANT AMENDMENTS.**

Subdivision 1. **Registration required.** (a) A person may not sell brands or grades of specialty fertilizers, soil amendments, or plant amendments in this state unless they are registered with the commissioner.

(b) Registration of the materials is not a warranty by the commissioner or the state.

(c) Specialty fertilizers custom applied are exempt from the registration requirements of this section.

(d) Custom blend specialty fertilizers are exempt from the registration requirements of this section if the distributor is licensed as required by section 18C.415 and the fertilizer is labeled as required by section 18C.215.

Subd. 2. **Application.** The application for registration must include:

- (1) for specialty fertilizers:
  - (i) the name and address of the guarantor and registrant;
  - (ii) the brand and grade;
  - (iii) the guaranteed analysis as required by section 18C.211;
  - (iv) the sources from which nitrogen, phosphorus, potassium, or other elements or materials are derived; and
  - (v) the amount and formulas of inert ingredients; and
- (2) for soil amendments and plant amendments:
  - (i) the name and address of the guarantor and registrant;
  - (ii) the brand name;
  - (iii) the sources from which the ingredients used in the product are derived; and
  - (iv) the guaranteed analysis as required by section 18C.211.

Subd. 3. **Copy of label, and labeling material.** Application for registration of a specialty fertilizer, a soil amendment, or a plant amendment must include:

- (1) a label or label facsimile of each product for which registration is requested; and
- (2) a copy of all labeling material used in this state for promotion and sale of each product being registered.

Subd. 4. **Yearly registration.** A registration is effective until January 1 following the date of issuance or approval. A product registration is not transferable from one person to another or from the ownership to whom the registration is issued to another ownership.

**History:** 1989 c 326 art 6 s 22; 2000 c 477 s 18

#### 18C.415 FERTILIZER LICENSES.

Subdivision 1. **License required.** (a) A person may not sell or distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or manufacture, blend, or otherwise manipulate fertilizers without obtaining a license from the commissioner from each fixed location where the person does business within the state and one license for all fixed locations that are located outside of the state.

(b) A distributor may not manipulate fertilizer by means of a mobile mechanical unit without a license from the commissioner for each mobile mechanical unit. For the purposes of this section, fertilizer application equipment owned or operated by a person licensed under paragraph (a) is not considered a mobile mechanical unit.

Subd. 2. **Copy of label and labeling material.** Application for license must include:

(1) a designation of the formula such as is provided on an invoice, delivery ticket, label, or label facsimile, for each product manufactured or formulated; and

(2) a copy of all labeling material used in this state for promotion of each product manufactured or formulated.

Subd. 3. **Effective period.** Other licenses are for the period from January 1 to the following December 31 and must be renewed annually by the licensee before January 1. A license is not transferable from one person to another, from the ownership to whom issued to another ownership, or from one location to another location.

Subd. 4. **Posting of license.** The license must be posted in a conspicuous place in each fixed location in this state and accompany each mobile mechanical unit operated in this state.

**History:** 1989 c 326 art 6 s 23; 1996 c 330 s 18

#### 18C.421 DISTRIBUTOR'S TONNAGE REPORT.

Subdivision 1. **Semiannual statement.** (a) Each licensed distributor of fertilizer and each registrant of a specialty fertilizer, soil amendment, or plant amendment must file a semiannual statement for the periods ending December 31 and June 30 with the commissioner on forms furnished by the commissioner stating the number of net tons and grade of each raw fertilizer material distributed or the number of net tons of each brand or grade of fertilizer, soil amendment, or plant amendment distributed in this state during the reporting period.

(b) Tonnage reports are not required to be filed with the commissioner from licensees who distributed fertilizer solely by custom application.

(c) A report from a licensee who sells to an ultimate consumer must be accompanied by records or invoice copies indicating the name of the distributor who paid the inspection fee, the net tons received, and the grade or brand name of the products received.

(d) The report is due on or before the last day of the month following the close of each reporting period of each calendar year.

(e) The inspection fee at the rate stated in section 18C.425, subdivision 6, must accompany the statement.

Subd. 2. **Additional reports.** The commissioner may by rule require additional reports for the purpose of gathering statistical data relating to fertilizer, soil amendments, and plant amendments distribution in the state.

Subd. 3. **Late report and fee penalty.** (a) If a distributor does not file the semiannual statement or pay the inspection fees by 31 days after the end of the reporting period, the commissioner shall assess a penalty of the greater of \$25 or ten percent of the amount due against the licensee or registrant.

(b) The fees due, plus the penalty, may be recovered in a civil action against the licensee or registrant.

(c) The assessment of the penalty does not prevent the commissioner from taking other actions as provided in this chapter.

**Subd. 4. Responsibility for inspection fees.** If more than one person is involved in the distribution of a fertilizer, soil amendment, or plant amendment, the distributor who imports, manufactures, or produces the fertilizer or who has the specialty fertilizer, soil amendment, or plant amendment registered is responsible for the inspection fee on products produced or brought into this state. The distributor must separately list the inspection fee on the invoice to the licensee. The last licensee must retain the invoices showing proof of inspection fees paid for three years and must pay the inspection fee on products brought into this state before July 1, 1989, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.

**Subd. 5. Verification of statements.** The commissioner may verify the records on which the statement of tonnage is based.

**History:** 1989 c 326 art 6 s 24; 1997 c 216 s 28; 2000 c 477 s 19

### 18C.425 APPLICATION AND INSPECTION FEES.

**Subdivision 1. Fertilizer license.** (a) An application for a license for each fixed location to be covered by the license within the state must be accompanied by a nonrefundable application fee of \$100.

(b) An application for a license for all fixed locations of a firm outside of the state must be accompanied by a nonrefundable application fee of \$100.

(c) An application for a license to cover mobile mechanical units must be accompanied by a nonrefundable application fee of \$100 for the first unit operated by one distributor and \$50 for each additional mobile mechanical unit.

**Subd. 2. Specialty fertilizer registration.** An application for registration of a specialty fertilizer must be accompanied by a nonrefundable application fee of \$100 for each brand and grade to be sold or distributed as provided in section 18C.411.

**Subd. 3. Soil amendment and plant amendment registration.** An application for registration of a soil amendment or plant amendment must be accompanied by a nonrefundable application fee of \$200 for each brand sold or distributed as provided in section 18C.411.

**Subd. 3a. Genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit.** An application for a genetically engineered fertilizer, genetically engineered soil amendment, or genetically engineered plant amendment permit must be accompanied by a nonrefundable application fee of \$125.

**Subd. 4. Fee for late application.** If an application for renewal of a fertilizer license or registration of a specialty fertilizer, soil amendment, or plant amendment is not filed before January 1 or July 1 of a year, as required, an additional application fee of one-half of the amount due must be paid before the renewal license or registration may be issued.

**Subd. 5. Fee for product use without initial registration or license.** An additional application fee equal to the amount due must be paid by an applicant for each license or registration required for products distributed or used in this state before an initial license or registration for the products distributed or used is issued by the commissioner.

**Subd. 6. Inspection fees.** The person responsible for payment of the inspection fees for fertilizers, soil amendments, or plant amendments sold and used in this state must pay an inspection fee of 30 cents per ton of fertilizer, soil amendment, and plant amendment sold or distributed in this state, with a minimum of \$10 on all tonnage reports. Products sold or distributed to manufacturers or exchanged between them are exempt from the inspection fee imposed by this subdivision if the products are used exclusively for manufacturing purposes.

**History:** 1989 c 326 art 6 s 25; 1991 c 250 s 18; 1997 c 216 s 29–32; 1Sp2005 c 1 art 1 s 26

### 18C.430 COMMERCIAL ANIMAL WASTE TECHNICIAN.

**Subdivision 1. Requirement.** (a) Except as provided in paragraph (c), after March 1, 2000, a person may not manage or apply animal wastes for hire without a valid commercial



animal waste technician license. This section does not apply to a person managing or applying animal waste on land managed by the person's employer.

(b) A person managing or applying animal wastes for hire must have a valid license identification card when managing or applying animal wastes for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

(c) A person who is not a licensed commercial animal waste technician who has had at least two hours of training or experience in animal waste management may manage or apply animal waste for hire under the supervision of a commercial animal waste technician.

**Subd. 2. Responsibility.** A person required to be licensed under this section who performs animal waste management or application for hire or who employs a person to perform animal waste management or application for compensation is responsible for proper management or application of the animal wastes.

**Subd. 3. License.** A commercial animal waste technician license:

(1) is valid for three years and expires on December 31 of the third year for which it is issued, unless suspended or revoked before that date;

(2) is not transferable to another person; and

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

**Subd. 4. Application.** (a) A person must apply to the commissioner for a commercial animal waste technician license on forms and in the manner required by the commissioner and must include the application fee. The commissioner shall prescribe and administer an examination or equivalent measure to determine if the applicant is eligible for the commercial animal waste technician license.

(b) The commissioner of agriculture, in cooperation with the Minnesota Extension Service and appropriate educational institutions, shall establish and implement a program for training and licensing commercial animal waste technicians.

**Subd. 5. Renewal application.** A person must apply to the commissioner of agriculture to renew a commercial animal waste technician license and must include the application fee. The commissioner may renew a commercial animal waste technician license, subject to re-examination, attendance at workshops approved by the commissioner, or other requirements imposed by the commissioner to provide the animal waste technician with information regarding changing technology and to help ensure a continuing level of competence and ability to manage and apply animal wastes properly. The applicant may renew a commercial animal waste technician license within 12 months after expiration of the license without having to meet initial testing requirements. The commissioner may require additional demonstration of animal waste technician qualification if a person has had a license suspended or revoked or has had a history of violations of this section.

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

(b) The bond or insurance must cover a period of time at least equal to the term of the applicant's license. The commissioner shall immediately suspend the license of a person who fails to maintain the required bond or insurance.

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

(d) Applications for reinstatement of a license suspended under paragraph (b) must be accompanied by proof of satisfaction of judgments previously rendered.

Subd. 7. **Application fee.** A person initially applying for or renewing a commercial animal waste technician license must pay a nonrefundable application fee of \$50 and a fee of \$10 for each additional identification card requested.

**History:** 1998 c 401 s 17

### MANURE APPLICATOR; TRAINING; CERTIFICATION

#### 18C.432 MANURE APPLICATOR EDUCATION AND TRAINING.

Subdivision 1. **Education and training.** (a) The commissioner shall develop, in conjunction with the University of Minnesota Extension Service, innovative educational and training programs addressing manure applicator concerns, including water quality protection and the development of manure management plans.

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

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

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

(e) The commissioner shall report to the house and senate agriculture policy and funding committees by January 30, 2001, with recommendations for training, examination, certification, and costs of a private applicator manure certification program.

Subd. 2. **Training manual and examination development.** The commissioner, in conjunction with the University of Minnesota Extension Service, shall continually revise and update manure applicator training manuals and examinations. Questions in the examinations must be determined by the commissioner. Manuals and examinations must include manure management practices that discuss prevention of manure occurrence in waters of the state.

**History:** 2000 c 435 s 1

#### 18C.433 COMMERCIAL ANIMAL WASTE APPLICATION.

Subdivision 1. **Requirement.** Beginning January 1, 2006, only a commercial animal waste technician, may apply animal waste from a feedlot that:

(1) has a capacity of 300 animal units or more; and

(2) does not have an updated manure management plan that meets the requirements of Pollution Control Agency rules.

Subd. 2. [Repealed by amendment, 2004 c 254 s 4]

Subd. 3. [Repealed by amendment, 2004 c 254 s 4]

**History:** 2000 c 435 s 2; 2004 c 254 s 4

18C.501 [Repealed, 1989 c 326 art 6 s 34]

18C.505 [Repealed, 1989 c 326 art 6 s 34]

18C.511 [Repealed, 1989 c 326 art 6 s 34]

18C.515 [Repealed, 1989 c 326 art 6 s 34]

18C.521 [Repealed, 1989 c 326 art 6 s 34]

18C.525 [Repealed, 1989 c 326 art 6 s 34]

### MINNESOTA AGRICULTURAL LIMING MATERIALS LAW

#### 18C.530 CITATION.

Sections 18C.531 to 18C.575 are known and may be cited as the "Minnesota Agricultural Liming Materials Law."

**History:** 1990 c 561 s 1

**18C.531 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 18C.531 to 18C.575.

Subd. 2. **Agricultural liming materials.** "Agricultural liming materials" means materials whose calcium or magnesium compounds, or both, account for an ENP of 20 percent or more and includes, but is not limited to, burnt lime, hydrated lime, industrial by-product, limestone, and marl.

Subd. 3. **Brand.** "Brand" means the term designating trademark, product name, or other specific designation under which individual agricultural liming material is offered for sale.

Subd. 4. **Bulk.** "Bulk" means in nonpackaged form.

Subd. 5. **Burnt lime.** "Burnt lime" means a material made from limestone that consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.

Subd. 5a. **Calcium carbonate equivalent; CCE.** "Calcium carbonate equivalent" or "CCE" means the acid neutralizing capacity of an agricultural liming material expressed as a weight percentage of pure calcium carbonate. CCE is often referred to as the "chemical purity" of an agricultural liming material.

Subd. 6. [Repealed, 1996 c 310 s 1]

Subd. 7. **Distributor.** "Distributor" means a person who imports, consigns, produces, or offers for sale, sells, barter, or otherwise supplies agricultural liming material in this state.

Subd. 8. **ENP.** "ENP" means effective neutralizing power and is an expression of the neutralizing value of liming material based on the calcium carbonate equivalent and fineness which is expressed as a dry weight percentage.

Subd. 9. **Fineness.** "Fineness" means the percentage by weight of material that will pass sieves of specified sizes.

Subd. 10. **Guaranteed analysis.** "Guaranteed analysis" means the plant food claim in addition to claims for ENP or the ability to neutralize soil acidity.

Subd. 11. [Repealed, 1996 c 310 s 1]

Subd. 12. **Hydrated lime.** "Hydrated lime" means a material made from burnt lime that consists of calcium hydroxide or a combination of calcium hydroxide with either magnesium oxide, magnesium hydroxide, or both.

Subd. 13. **Industrial by-product.** "Industrial by-product" means an industrial waste or by-product or the by-product of a municipal water treatment process containing calcium or magnesium or both in a form that may neutralize soil acidity.

Subd. 14. **Label.** "Label" means the display of all written, printed, or graphic matter on the immediate container or the statement accompanying a bulk shipment of agricultural liming material.

Subd. 15. **Labeling.** "Labeling" means written, printed, or graphic matter on or accompanying agricultural liming material and advertisements, brochures, posters, and television, radio, or other announcements used in promoting their sale.

Subd. 16. **Limestone.** "Limestone" means a material consisting of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

Subd. 17. **Marl.** "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.

Subd. 18. **Official sample.** "Official sample" means a sample of agricultural liming material taken by the commissioner according to methods prescribed in section 18C.561.

Subd. 19. [Repealed, 1996 c 310 s 1]

Subd. 20. [Repealed, 1996 c 310 s 1]

Subd. 21. **Plant food.** "Plant food" means one of the following plant nutrients or an additional plant nutrient that might be generally recognized as beneficial for plant growth: nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

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FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT LAW 18C.541

Subd. 22. **Producer.** "Producer" means a person who operates a source of production or who blends an agricultural liming material to form a stockpile.

Subd. 23. **Sell.** "Sell" means:

- (1) selling or transferring ownership;
- (2) offering and exposing for sale, exchange, distribution, and transportation in and into this state;
- (3) possession with intent to sell, exchange, distribute, or transport in and into this state;
- (4) storing, carrying, and handling in aid of traffic, whether done in person or through an agent, employee, or others; or
- (5) receiving, accepting, and holding a consignment for sale.

Subd. 24. **Source of production.** "Source of production" means a plant or facility where agricultural liming materials are produced or stockpiled.

Subd. 25. **Stockpile.** "Stockpile" means a supply of agricultural liming material stored for future use.

Subd. 26. [Repealed, 1996 c 330 s 23]

Subd. 27. [Repealed, 1996 c 310 s 1]

Subd. 28. **Weight.** "Weight" means the weight of material as offered for sale.

**History:** 1990 c 561 s 2; 1996 c 330 s 19,20; 1997 c 216 s 33

## 18C.535 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Administration.** The commissioner shall administer, implement, and enforce sections 18C.531 to 18C.575. The Department of Agriculture is the lead state agency for the regulation of agricultural liming materials which includes the storage, handling, distribution, and use of agricultural liming materials.

Subd. 2. **Delegation of duties.** The commissioner may delegate authorities and duties under sections 18C.531 to 18C.575 to designated employees or agents of the Department of Agriculture.

Subd. 3. **Delegation to approved agencies.** The commissioner may, by written agreement, delegate specific inspection, enforcement, and other regulatory duties of sections 18C.531 to 18C.575 to officials of approved agencies as defined in section 18B.01, subdivision 2.

**History:** 1990 c 561 s 3

## 18C.541 LICENSE.

Subdivision 1. **License to sell.** Before a person may sell, offer for sale, or dispose of in this state agricultural liming material to be used for the correction of soil acidity or soil fertility, the distributor and producer must obtain a license by filing with the commissioner an acceptable application for a license to sell, together with the license fee, on or before January 1 of each year. The application must state the name of the producer or distributor, the location of the principal office of the producer or distributor, the number and location of each source of production covered by the license, and the name, brand, or trademark under which the agricultural liming material will be sold.

Subd. 2. **Effective dates.** A license is effective until January 1 following the date of its issuance or approval. A license may not be transferred from one person to another.

Subd. 3. **License posting.** The license must be posted in a conspicuous place in each location where agricultural liming materials are sold.

Subd. 4. **Substantiation of claims.** The commissioner may require a person applying for a license to sell or produce an agricultural liming material for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. As evidence to substantiate claims, the commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota and

may accept or reject additional sources of evidence in evaluating the agricultural liming material. In all cases, the experimental evidence must relate to conditions in this state for which use of the product is intended. The commissioner may also require evidence of value of the product when used as directed or recommended.

Subd. 5. **Insufficient evidence.** If the commissioner determines that the evidence submitted under subdivision 4 does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate its performance and usefulness.

Subd. 6. **Industrial by-product without charge exempt.** Industrial by-product lime material that is transferred between parties without compensation, except for a fair and reasonable transportation charge, is exempt from fees for licensing and inspection.

**History:** 1990 c 561 s 4

### 18C.545 LABELING.

Subdivision 1. **Product label.** An agricultural liming material offered for sale in this state must be labeled in accordance with rules adopted under this chapter.

Subd. 2. **Bagged and bulk shipment label.** If agricultural liming material is transported or sold in bags or bulk, an invoice or delivery ticket in written or printed form as required by subdivision 1 must accompany each delivery and be supplied to each purchaser at the time of delivery.

**History:** 1990 c 561 s 5; 1996 c 330 s 21

### 18C.551 APPLICATION, SAMPLING, AND INSPECTION FEES.

Subdivision 1. **Agricultural liming materials license.** An application for a license must be accompanied by a nonrefundable application fee of \$150. This fee does not apply to occasional sales of 50 tons or less on an annual basis.

Subd. 2. **Fee for late application.** If an application for license renewal is not filed before January 1, an additional nonrefundable application fee of 50 percent of the amount due may be assessed before the renewal license is issued.

Subd. 2a. **Fee for product use without initial license.** An applicant shall pay an additional application fee equal to the amount due for each license required if the applicant has distributed or used products in this state before the commissioner has issued an initial license for the products distributed or used.

Subd. 3. **Inspection fees.** A person shall pay an inspection fee of five cents per ton to the commissioner for all agricultural liming material offered for sale or sold in this state with a minimum of \$10 on all tonnage reports. If more than one person is involved in the distribution of agricultural liming material, the person who first sells the agricultural liming material is responsible for the inspection fee. A person licensed under section 18C.541 must retain invoices showing proof of inspection fees paid.

Subd. 4. **Sample and analysis fee.** The commissioner may sample agricultural liming material from a source of production to the extent the commissioner considers necessary to implement sections 18C.531 to 18C.575. The commissioner shall charge a sampling fee of \$40 for each sample collected. If the sample and analysis fee is not paid before 60 days after billing, the commissioner shall assess an additional nonrefundable late payment fee of 50 percent of the total sample and analysis fee due.

Subd. 5. **Deposit of fees.** Fees and penalties collected under sections 18C.531 to 18C.575 must be deposited in the general fund.

**History:** 1990 c 561 s 6; 1993 c 13 art 1 s 14; 1997 c 216 s 34

### 18C.555 TONNAGE REPORT.

Subdivision 1. **Semiannual statement.** A licensed distributor or producer of agricultural liming material shall file with the commissioner on forms furnished by the commission-

er a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of agricultural liming material sold in this state during the reporting period. The report is due on or before the last day of the month following the close of each reporting period of each calendar year. For a tonnage report that is not filed within 31 days after the end of the reporting period, a penalty of \$50 must be paid by the licensee and may be recovered in a civil action against the licensee. The assessment of this penalty does not prevent the department from taking other actions as provided in sections 18C.531 to 18C.575.

Subd. 2. **Record verification.** Submission of each tonnage report gives authority to the commissioner to verify the records upon which the statement of tonnage is based.

**History:** 1990 c 561 s 7

### 18C.561 SAMPLING METHODS.

The methods of sampling and analysis of agricultural liming materials must be those adopted by the Association of Official Analytical Chemists. In cases not covered by those methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.

**History:** 1990 c 561 s 8

### 18C.565 FALSE OR MISLEADING STATEMENTS.

A person may not sell a misbranded agricultural liming material. An agricultural liming material is misbranded if it carries a false or misleading statement on the container or on the label attached to the container or if false or misleading statements concerning the agricultural liming material are disseminated in any manner or by any means.

**History:** 1990 c 561 s 9

### 18C.571 ADULTERATION.

A person may not sell an adulterated agricultural liming material. An agricultural liming material is adulterated if:

- (1) it contains a deleterious or harmful ingredient in sufficient amount to render it injurious to plant life or the environment when applied in accordance with directions for use on the label;
- (2) its composition falls below or differs from that it is purported to possess by its labeling; or
- (3) it contains unwanted crop seed or weed seed. Adulterated products that cannot be reconditioned must be disposed of by methods approved by the commissioner.

**History:** 1990 c 561 s 10

### 18C.575 RULES.

Subdivision 1. **For administration.** The commissioner may adopt rules necessary to administer sections 18C.531 to 18C.575.

Subd. 2. **Liming materials.** The commissioner may adopt rules governing the distribution, labeling, sale, handling, certification, use, application, storage, sampling, and analysis of liming materials.

**History:** 1990 c 561 s 11; 1997 c 7 art 5 s 2

## FERTILIZER ON TURF OR IMPERVIOUS SURFACES

### 18C.60 PHOSPHOROUS TURF FERTILIZER USE RESTRICTIONS.

Subdivision 1. **Definition.** For the purpose of this section, "turf" means noncrop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state, or local units of government, including parks, recreation areas, and public golf courses. Turf

does not mean pasture, hayland, hay, turf grown on turf farms, or any other form of agricultural production.

**Subd. 2. Phosphorus use restrictions.** (a) A person may not apply a fertilizer containing the plant nutrient phosphorus to turf statewide, except under conditions listed in paragraph (b).

(b) Paragraph (a) does not apply when:

(1) a tissue, soil, or other test by a laboratory or method approved by the commissioner and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;

(2) the property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season; or

(3) the fertilizer containing the plant food phosphorus is used on a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program approved by the commissioner.

(c) Applications of phosphorous fertilizer authorized under paragraph (b) must not exceed rates recommended by the University of Minnesota and approved by the commissioner.

**Subd. 3. Consumer information.** The commissioner, in consultation with the University of Minnesota Extension Service, fertilizer industry representatives, lakes groups, and other interested or affected parties, must produce consumer information on use restrictions and recommended best practices for lawn fertilizer containing phosphorus, and on best management practices for other residential sources of phosphorus in the urban landscape. The information must be in a format and of a content suitable for posting and distribution at retail points of sale of fertilizer that contains phosphorus and is for use on turf.

**Subd. 4. Research evaluation; report.** The commissioner, in cooperation with the University of Minnesota and the University of Minnesota Extension Service, and, after consultation with representatives of the fertilizer industry, lakes groups, and other interested or affected parties, shall evaluate research needs and encourage targeted research opportunities to investigate the effects of phosphorous fertilization of turf on urban stormwater quality. The commissioner must evaluate the effectiveness of the restrictions on phosphorous fertilizers under this section and report to the legislature by January 15, 2007.

**History:** 2002 c 345 s 4; 2004 c 179 s 1; 2005 c 10 art 1 s 12

#### **18C.61 FERTILIZER APPLICATION TO IMPERVIOUS SURFACE; PROHIBITION.**

(a) A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container.

(b) For the purposes of this section, "impervious surface" means a highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

**History:** 2002 c 345 s 5

#### **18C.62 ENFORCEMENT.**

Sections 18C.60 and 18C.61 are enforced by local units of government under their existing authority. Violation of a provision in either of these sections is a petty misdemeanor.

**History:** 2002 c 345 s 6