

CHAPTER 156A

WATER WELLS AND EXPLORATORY BORING

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156A.01 LEGISLATIVE INTENT.

It is the legislative intent and purpose in sections 156A.01 to 156A.08 to reduce and minimize the waste of ground water resources within this state by reasonable legislation in licensing of drillers or makers of water wells and the regulation of exploratory borings in Minnesota and to protect the health and general welfare by providing a means for the development and protection of the natural resource of underground water in an orderly, sanitary and reasonable manner. In furtherance of the above intents and purposes, and in recognition of the effects of exploration and mining of metallic minerals on ground water resources, the legislature finds that it is necessary to require submission of factual data generated by exploratory borings to the state, for the purpose of controlling possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.

History: *Ex1971 c 29 s 1; 1980 c 535 s 1*

156A.02 DEFINITIONS; EXCLUSIONS.

Subdivision 1. For the purposes of sections 156A.01 to 156A.08, "water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of the same is for the location, diversion, artificial recharge, or acquisition of ground water; provided, however, that the term does not include excavation by backhoe, or otherwise for temporary dewatering of ground water for nonpotable use during construction, where the depth thereof is 25 feet or less; nor shall it include an excavation other than exploratory boring made for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying or for the inserting media to repressure oil or natural gas bearing formations or for storing petroleum, natural gas or other products.

Subd. 2. For the purposes of sections 156A.01 to 156A.08, "water well contractor" and "contractor" means any person, firm, copartnership, association or corporation, who shall construct, abandon, or repair a water well upon land other than his own for compensation. "Water well drilling machine" means any machine or device such as a cable tool, rotary, hollow rod, or auger, used for construction, abandonment, or repair of a water well.

Subd. 3. Sections 156A.01 to 156A.08 shall not require licensing of (1) an individual who drills a water well on land which is owned or leased by him and is used by him for farming or agricultural purposes or as his place of abode, or (2) to an individual who performs labor or services for a water well contractor in connection with the drilling, abandonment, or repair of a water well at the

direction and at the personal supervision of a licensed water well contractor; provided, however, that the individual shall comply with all other provisions of sections 156A.01 to 156A.08 and with any rule, regulation or well code adopted thereunder.

Subd. 4. For the purposes of sections 156A.01 to 156A.08 "explorer" means a person who has the right to drill any exploratory boring.

Subd. 5. For the purposes of sections 156A.01 to 156A.08 "exploratory boring" means any surface drilling done for the purpose of exploring or prospecting for oil, natural gas, and metallic minerals, including but not limited to the following: 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. "Exploratory boring" does not include drilling done in the Biwabik iron formation in relation to natural iron ore or activities regulated pursuant to section 298.48.

Subd. 6. For the purposes of sections 156A.02 to 156A.10 "groundwater thermal exchange device" means any space heating or cooling device, the operation of which is dependent upon extraction and reinjection of groundwaters from an independent aquifer. Thermal exchange devices licensed under this chapter shall be sealed against the introduction of any foreign substance into the system, but shall be so constructed as to permit periodic inspection of water quality and temperature.

History: *Ex1971 c 29 s 2; 1973 c 747 s 1,2; 1980 c 535 s 2-4; 1981 c 179 s 2; 1981 c 278 s 2-4; 1982 c 424 s 39*

156A.03 REGULATION AND LICENSING.

Subdivision 1. The state commissioner of health shall regulate and license the drilling and constructing of all water wells within this state, examine and license water well contractors and, after consultation with the commissioner of natural resources and the pollution control agency establish standards for the design, location, construction, abandonment, and repair of water wells within this state. As provided in section 156A.071, the commissioner shall license explorers engaged in exploratory boring and shall examine individuals who supervise or oversee exploratory boring.

Subd. 2. No contractor shall drill, construct, abandon, or repair a water well within this state unless in possession of a valid license to do so issued annually by the state commissioner of health. An applicant who is otherwise qualified but who does not have practical field experience in the operation of conventional drilling machines such as a cable tool, rotary, hollow rod, or auger, but who does install unconventional wells such as drive point, or who is in the well repair service which involves modification to the well casing, screen, depth, or diameter below the upper termination of the well casing, shall have his license limited to such water well contracting work.

Subd. 3. A professional engineer registered pursuant to the provisions of sections 326.02 to 326.15, in the branches of civil or geological engineering, shall not be required to be licensed as a water well contractor under the provisions of this section to drill test borings or to install piezometer wells for engineering purposes, or to construct ground water quality sampling and monitoring wells as defined in rules promulgated by the commissioner. Test holes, piezometer wells installed for engineering purposes, and other wells described by this subdivision, shall be constructed, maintained and abandoned in accordance with this chapter and the rules promulgated thereunder.

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Any professional engineer engaged in the practice of constructing ground water quality sampling and monitoring wells as described in this subdivision shall register with the commissioner on forms provided by the commissioner.

History: *Ex1971 c 29 s 3; 1973 c 747 s 3; 1977 c 213 s 1; 1977 c 305 s 45; 1980 c 535 s 5; 1981 c 179 s 1; 1981 c 278 s 5,6*

156A.031 PLASTIC CASINGS.

Subdivision 1. The use of plastic casings in water wells is expressly permitted within the state of Minnesota. Any plastic casing used for water wells must meet the current standard specifications of the American Society for Testing and Materials (ASTM) for thermoplastic water well casing pipe and couplings. All plastic water well casing shall be capable of withstanding pressures equal to or greater than 200 pounds per square inch (p.s.i.).

The state commissioner of health may supplement the provisions of this section with rules relating to the installation of plastic water well casing, providing, however, that such rules shall not delay the use of plastic water well casing meeting the requirements of this section.

Prior to January 31, 1981, the state commissioner of health shall adopt rules of statewide application pursuant to chapter 15 concerning the installation and use of plastic water well casing pipes and couplings in the state.

Subd. 2. Until the commissioner implements the rules of statewide application required under subdivision 1, the permission for the use of plastic casings as granted by this section applies to all counties except the counties of St. Louis, Lake, Cook, Carlton, Pine, Kanabec, Chisago, Anoka, Washington, Ramsey, Hennepin, McLeod, Carver, Sibley, Scott, Dakota, Redwood, Brown, Nicollet, LeSueur, Rice, Goodhue, Wabasha, Watonwan, Blue Earth, Waseca, Steele, Dodge, Olmsted, Winona, Faribault, Freeborn, Mower, Fillmore, Koochiching, Wright and Houston.

History: *1977 c 305 s 45; 1977 c 398 s 1,2; 1979 c 312 s 1,2*

156A.04 SUSPENSION OR REVOCATION OF LICENSE.

The state commissioner of health may, after hearing upon reasonable notice, suspend or revoke the license of a contractor or an explorer upon finding that the licensee has violated the provisions of sections 156A.01 to 156A.08 or the rules and regulations adopted hereunder applicable to the particular license. Proceedings by the state commissioner of health pursuant to this section and review thereof shall be in accordance with the administrative procedure act.

History: *Ex1971 c 29 s 4; 1977 c 305 s 45; 1980 c 535 s 6*

156A.05 POWERS AND DUTIES OF THE COMMISSIONER.

Subdivision 1. The state commissioner of health shall possess all powers reasonable and necessary to enable him to exercise effectively the authority granted to him by sections 156A.01 to 156A.08.

Subd. 2. The commissioner of health shall by December 31, 1971, in the manner prescribed by chapter 15, hold a public hearing and promulgate rules and regulations necessary to carry out the purposes of sections 156A.01 to 156A.08 including, but not limited to:

- (a) Issuance of licenses for qualified water well contractors.
- (b) Establishment of conditions for examination and review of applications for license.
- (c) Establishment of conditions for revocation and suspension of license.

(d) Establishment of minimum standards for design, location, construction, abandonment, and repair of wells to effectuate the purpose and intent of sections 156A.01 to 156A.08.

(e) Establishment of a system for reporting on wells drilled and abandoned by licensed water well contractors.

Subd. 3. The state commissioner of health may inspect water wells drilled, abandoned, or repaired or being drilled, abandoned, or repaired, and shall have access to same at all reasonable times.

Subd. 4. The commissioner may order the owner of a well to take remedial measures, including making repairs, reconstructing or abandoning the well in accordance with rules of the commissioner. The order may be issued if the commissioner determines, based upon inspection of the well and site or an analysis of water from the well, that any of the following conditions exist:

(1) the well is contaminated,

(2) the well has not been abandoned in accordance with the rules of the commissioner,

(3) the well is in such a state of disrepair that its continued existence endangers the quality of the ground water,

(4) the well is located in such a place or constructed in such a manner that its continued use or existence endangers the quality of the ground water.

The order may be enforced in an action to seek compliance brought by the commissioner in the district court of the county in which the well is located.

The owner has a cause of action for civil damages against any person whose action or inaction caused contamination of the well. The right of an owner to maintain a course of action as provided herein extends for a period of six years after the owner knows or becomes aware of the contamination of the well. The court shall award damages, reasonable attorneys' fees, and costs and disbursements.

History: *Ex1971 c 29 s 5; 1977 c 305 s 45; 1981 c 278 s 8*

156A.06 WATER WELL CONTRACTORS AND EXPLORATORY BORERS ADVISORY COUNCIL; MEMBERS; TERMS; EMPLOYEES.

Subdivision 1. There is hereby created the water well contractors and exploratory borers advisory council, herein referred to as the "advisory council," as an advisory council to the state commissioner of health. The advisory council shall be composed of 13 voting members. Of the 13 voting members, one member shall be from the state department of health, appointed by the state commissioner of health; one member shall be from the department of natural resources, appointed by the commissioner of natural resources; one member shall be a member of the Minnesota geological survey of the University of Minnesota appointed by the director; two members shall be engaged in the business of exploratory boring for minerals; two public members who are not connected with the business of exploratory boring or the water well drilling industry; and six members shall be contractors actively engaged in the water well drilling industry, not to exceed two from the seven county metropolitan area and at least four from the remainder of the state who shall be representative of different geographical regions. They shall be residents of the state of Minnesota and appointed by the commissioner of health. No appointee of the water well drilling industry shall serve consecutive terms. The appointees to the advisory council from the water well drilling industry shall have been bona fide residents of this state for a period of at least three years prior to appointment and shall have had at least five years experience in the water well drilling business. The council shall not expire, but the

terms of the appointed members and the compensation and removal of all members shall be as provided in section 15.059.

Subd. 2. [Repealed, 1973 c 747 s 12]

History: *Ex1971 c 29 s 6; Ex1971 c 48 s 18; 1973 c 747 s 4; 1975 c 315 s 12; 1977 c 305 s 45; 1980 c 535 s 7; 1982 c 483 s 1*

156A.07 WATER WELL CONTRACTORS' LICENSES.

Subdivision 1. Any person not already licensed under sections 156A.01 to 156A.08 who desires to engage in the drilling, making, construction, abandonment, or repair of one or more wells in this state shall first file an application with the commissioner for a contractor's license, setting out his qualifications therefor, the equipment proposed to be used in the contracting, and other information as may be required by the commissioner, all upon forms prescribed by the commissioner. The commissioner shall charge a fee in an amount prescribed by him pursuant to section 144.122 for the filing of the application by any person, and he shall not act upon any application until the fee has been paid. When the commissioner has approved the application, the applicant shall take an examination given by the commissioner.

Subd. 2. All fees collected shall be deposited with the state treasurer.

Subd. 3. [Repealed, 1973 c 747 s 12]

Subd. 4. All persons licensed under the provisions of sections 156A.01 to 156A.08 shall, within 30 days after completion or abandonment of any well, submit a verified report to the Minnesota department of health upon forms provided by it containing the following information: (a) the name and address of the owner of the well and the actual location of the well; (b) a well log of the materials and water encountered in connection with drilling the well, together with all pumping tests relating thereto; (c) other information as the commissioner of health may require concerning the drilling or abandonment of the well. The commissioner of health shall send one copy of the report to the commissioner of natural resources, the local soil and water conservation district within which the well is located, and one copy to the director of the Minnesota geological survey within 30 days of receipt from the water well contractor. The department of health may: (1) Establish procedures for coordinating well data collection with other state and local governmental agencies; and (2) Establish criteria and procedures for submission of well logs, formation samples or well cuttings, water samples or other special information which may be required for geologic and water resource mapping to protect, develop, and manage, for the public health and welfare and to assist in the development of a state water information system. The license of any person licensed under sections 156A.01 to 156A.08 may be suspended or revoked, as provided in section 156A.03, for violation of any of the provisions of this subdivision.

Subd. 5. When an applicant has successfully passed the examination for original license, he shall submit to the commissioner a license application and a fee in an amount prescribed by the commissioner pursuant to section 144.122, upon the receipt of which the commissioner may issue a license.

Subd. 6. The license issued pursuant to this section is not transferable. Application to renew the license shall be submitted on a date specified by the commissioner, accompanied by a fee in an amount prescribed by the commissioner pursuant to section 144.122. A penalty fee in an amount prescribed by the commissioner pursuant to section 144.122 shall also be paid if the renewal application is submitted after the prescribed renewal date. If a water well contractor submits his renewal application after the prescribed renewal date, he

shall not work as a water well contractor after that date until he has submitted an application, fee, and penalty fee.

Subd. 7. The license issued pursuant to this section shall include the registration of one drilling machine. Each licensed water well contractor shall pay an annual fee in an amount prescribed by the commissioner pursuant to section 144.122 for the registration with the commissioner of each additional drilling machine.

Subd. 8. The commissioner of health upon application therefor, and payment of the fees herein provided, may issue a license, without giving an examination, to any water well contractor who holds a similar license or certificate of registration in any state, territory, or possession of the United States, or any foreign country, if the requirements for licensing of water well contractors under which the applicant received a license or certificate of registration do not conflict with the provisions of sections 156A.01 to 156A.08, are of a standard not lower than that specified by the rules, regulations, and construction code adopted hereunder, and if equal reciprocal privileges are granted to licensees of this state.

Subd. 9. No political subdivision shall require any water well contractor holding a water well contractors license issued pursuant to this section to pay any license or registration fee, provided, however, that any political subdivision shall be provided upon request with a list of licensed water well contractors.

History: *Ex1971 c 29 s 7; 1973 c 747 s 5-11; 1974 c 471 s 13; 1975 c 310 s 16-18; 1977 c 305 s 45; 1977 c 446 s 17; 1981 c 278 s 9,10*

156A.071 EXPLORATORY BORING; LICENSING AND REGULATION.

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

(a) "Data" includes but is not limited to all samples and factual noninterpreted data obtained from exploratory borings and samples including analytical results;

(b) "Parcel" means a government section, fractional section, or government lot; and

(c) "Samples" means at least a one-quarter portion of all samples from exploratory borings that are customarily collected by the explorer.

Subd. 2. **Licensing.** An explorer engaging in exploratory boring shall obtain a license to do so in accordance with the provisions of this chapter and the rules adopted thereunder. The explorer may designate a responsible individual who supervises and oversees the making of exploratory borings. Before an individual supervises or oversees an exploratory boring, the individual shall take and pass an examination on those sections of the Minnesota Water Well Construction Code relating to construction, location, and abandonment of wells, which apply to exploratory borings. A professional engineer registered pursuant to sections 326.02 to 326.15, or a certified professional geologist shall not be required to take the examination specified in this section but shall be required to be licensed in accordance with this section to engage in exploratory boring.

Subd. 3. **Registration.** At least 30 days prior to commencing exploratory borings, an explorer shall register with the commissioner of natural resources and provide a copy of the registration to the commissioner of health. The registration shall include:

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

(b) The identification of an agent, including the agent's business address. The commissioner of natural resources may require a bond, security, or other assurance from an explorer if the commissioner has reasonable doubts as to the

explorer's financial ability to comply with requirements of law relating to exploratory boring. An explorer shall register annually while conducting exploratory boring.

Subd. 4. Informational requirements. At least ten days prior to the commencement of exploratory boring, each explorer shall submit to the commissioner of natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the state department of transportation, indicating the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. A copy of this map shall be submitted to the commissioner of health.

Subd. 5. Access to drill sites. The commissioner of health, the commissioner of natural resources, the director of the pollution control agency, the county health officer, and their officers and employees shall have access to exploratory boring sites for the purpose of inspecting the drill holes, drilling, and abandonment, and for the purpose of sampling ambient air and drilling waters, and measuring the radioactivity of the waste drill cuttings at the drilling site at the time of on-site observation.

Subd. 6. Emergency notification. The explorer shall promptly notify the commissioner of health, the commissioner of natural resources, the pollution control agency, and the county health officer of any occurrence during exploratory boring that has a potential for significant adverse health or environmental effects and shall take such action as may be reasonably possible to minimize such adverse effects. The commissioner of health may inspect data prior to its submission as required by subdivision 8, if necessary, to accomplish the purposes of the laws relating to explorers and exploratory borings. The data examined by the commissioner of health shall be considered to be not public data prior to the time for making any submissions of the data under subdivision 8 or 9.

Subd. 7. Permanent and temporary abandonment procedures. Permanent and temporary abandonment of exploratory borings shall be accomplished pursuant to rules adopted in accordance with this chapter.

Subd. 8. Abandonment report. Within 30 days of permanent or temporary abandonment of an exploratory boring, the explorer shall submit on forms provided by the commissioner of health to the commissioner of health and the commissioner of natural resources a report to include:

- (a) The location of each drill hole at as large a scale as possible, which is normally prepared as part of the explorer's record;
- (b) The type and thickness of overburden and rock encountered;
- (c) Identification of water bearing formations encountered;
- (d) Identification of hydrologic conditions encountered;
- (e) Method of abandonment used;
- (f) Methods of construction and drilling used;
- (g) Average scintillometer reading of waste drill cuttings prior to backfilling of the recirculation pits.

Subd. 9. Submission of data from exploratory borings. Data obtained from exploratory borings shall be submitted by the explorer to the commissioner of natural resources as follows:

- (a) Upon application for a state permit required for activities relating to mineral deposit evaluation, the explorer shall submit to the commissioner of natural resources data relevant to the proposal under consideration. The explorer may identify portions of the data which, if released, would impair the competitive position of the explorer submitting the data. Data so identified shall be considered to be not public data. If the commissioner is requested to disclose the data, he shall mail notice of the request to the explorer, and shall 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 shall not release the data to any person other than parties to the proceedings relating to the permit under consideration. Parties to the proceedings shall maintain the confidentiality of data. Further, no not public data shall be released by the commissioner until 30 days after mailed notice to the explorer of the commissioner's intention to do so. Under no circumstances shall the commissioner release data to any person, company, or organization engaged in exploration, mining, milling or related industry pertaining to any mineral. 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 shall not be released. Any person aggrieved by the decision of the commissioner may appeal the decision to the district court pursuant to chapter 14;

(b) Upon application for a state permit required for mine development, the explorer shall submit to the commissioner of natural resources data relevant to the proposal under consideration. This data shall be considered public data and persons submitting the data shall not be subject to civil or criminal liability for its use by others;

(c) Within six months after termination by the explorer of its lease or any other type of exploration agreement on a property all data shall be submitted. For a lease or any other type of exploration agreement terminated prior to May 1, 1980, on which exploratory borings were made on or after January 1, 1977, the data as required herein shall be submitted within six months of May 1, 1980. The data shall be considered public data and persons submitting the data shall not be subject to civil or criminal liability for its use by others. Data submitted to the commissioner of natural resources prior to May 1, 1980 need not be submitted under this section. The commissioner of natural resources shall designate which samples shall be submitted, and shall specify the location to which the sample shall be delivered. In the event that the explorer requires certain samples in their entirety, the commissioner of natural resources may waive the requirement for a one-quarter portion of the samples. Samples submitted become property of the state.

(d) As used in this subdivision, "mineral deposit evaluation" means examining an area to determine the quality and quantity of minerals, excluding exploratory boring but including obtaining a bulk sample, by such means as excavating, trenching, constructing shafts, ramps, tunnels, pits and producing refuse and other associated activities. "Mineral deposit evaluation" shall not include activities intended, by themselves, for commercial exploitation of the ore body. "Mine development" means those activities undertaken after mineral deposit evaluation for commercial exploitation of the ore body.

History: 1976 c 166 s 7; 1980 c 535 s 8; 1981 c 278 s 11; 1982 c 424 s 130

156A.075 LOCAL CONTROL.

Nothing contained in Laws 1980, Chapter 535 shall be construed as limiting the lawful authority of local units of government to prohibit mineral exploration within their boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, consistent with the provisions of Laws 1980, Chapter 535, other state laws and rules promulgated thereunder.

History: 1980 c 535 s 10

156A.08 PENALTIES.

Any person who shall willfully violate any lawful regulation, rule or order of the commissioner, or who shall engage in the business of drilling or making water wells without first having obtained a license as in sections 156A.01 to 156A.08 required, or who shall engage in the business of exploratory boring without either being licensed in accordance with the provisions of this chapter, or being registered as a professional engineer or certified as a professional geologist, or who shall violate any provision of sections 156A.01 to 156A.08, shall be guilty of a gross misdemeanor. Any violation of sections 156A.01 to 156A.08 shall be prosecuted by the county attorney in the county in which the said violation occurred or is occurring, and the trial thereof shall be held in that county.

History: *Ex1971 c 29 s 8; 1977 c 305 s 45; 1980 c 535 s 9; 1981 c 278 s 12*

156A.10 GROUNDWATER THERMAL EXCHANGE DEVICES: LICENSING AND REGULATION.

Subdivision 1. Notwithstanding any department or agency rule to the contrary, the department of health shall issue, upon request and submission of a \$50 fee, permits for the reinjection of water by a properly constructed well into the same aquifer from which the water was drawn exclusively for the operation of a groundwater thermal exchange device. Withdrawal and reinjection shall be accomplished by means of a closed system in which the waters drawn for thermal exchange shall have no contact or commingling with water from other sources or with any polluting material or substances and so constructed as to allow opening for inspection by the department. As a condition of the permit, an applicant shall agree to allow inspection by the department during regular working hours for department inspectors. A maximum of 200 permits shall be issued for small systems having maximum capacities of 20 gallons per minute or less, which shall be subject to inspection twice annually. A maximum of ten permits shall be issued for larger systems having maximum capacities from 20 to 50 gallons per minute, which shall be subject to inspection four times per year. The department may by rule provide for administration of this section.

Subd. 2. Water appropriation permit requirements and penalties provided in sections 105.41 to 105.416 and any related rules promulgated and enforced by the department of natural resources shall apply to groundwater thermal exchange permit recipients if actual rate of flow exceeds 20 gallons per minute. Validity of the permit is contingent upon compliance with all provisions of subdivision 1. Noncompliance shall subject the permitted party to any sanctions applicable to the noncomplying activity available to the Minnesota department of health and Minnesota pollution control agency.

History: *1981 c 179 s 3*