

CHAPTER 103I

WELLS, BORINGS, AND UNDERGROUND USES

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103I.005 DEFINITIONS.

[For text of subd 1, see M.S.1990]

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

[For text of subds 3 to 17, see M.S.1990]

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 [Repealed, 1991 c 199 art 2 s 29; 1991 c 355 s 54]

[For text of subds 20 and 21, see M.S.1990]

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

[For text of subd 23, see M.S.1990]

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

[For text of subd 24, see M.S.1990]

History: 1991 c 355 s 6-8

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

[For text of subd 1, see M.S.1990]

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

- (1) regulate the drilling, construction, modification, repair, and sealing of wells and borings;
- (2) examine and license well contractors, persons modifying or repairing well casings, well screens, or well diameters; constructing, repairing, and sealing unconventional wells such as drive point wells or dug wells; constructing, repairing, and sealing dewatering wells; sealing wells; installing well pumps or pumping equipment; and excavating or drilling holes for the installation of elevator shafts or hydraulic cylinders;
- (3) register and examine monitoring well contractors;
- (4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;
- (5) after consultation with the commissioner of natural resources and the pollution

control agency, establish standards for the design, location, construction, repair, and sealing of wells, elevator shafts, and borings within the state; and

(6) issue permits for wells, groundwater thermal devices, vertical heat exchangers, and excavation for holes to install elevator shafts or hydraulic cylinders.

[For text of subd 3, see M.S.1990]

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

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

- (1) issuance of licenses for:
 - (i) qualified well contractors, persons modifying or repairing well casings, well screens, or well diameters;
 - (ii) persons constructing, repairing, and sealing unconventional wells such as drive points or dug wells;
 - (iii) persons constructing, repairing, and sealing dewatering wells;
 - (iv) persons sealing wells; and
 - (v) persons installing well pumps or pumping equipment and excavating holes for installing elevator shafts or hydraulic cylinders;
- (2) issuance of registration for monitoring well contractors;
- (3) establishment of conditions for examination and review of applications for license and registration;
- (4) establishment of conditions for revocation and suspension of license and registration;
- (5) establishment of minimum standards for design, location, construction, repair, and sealing of wells to implement the purpose and intent of this chapter;
- (6) establishment of a system for reporting on wells and borings drilled and sealed;
- (7) modification of fees prescribed in this chapter, according to the procedures for setting fees in section 16A.128;
- (8) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination, for which the commissioner may adopt emergency rules;
- (9) establishment of wellhead protection measures for wells serving public water supplies;
- (10) establishment of procedures to coordinate collection of well data with other state and local governmental agencies;
- (11) establishment of criteria and procedures for submission of well logs, formation samples or well cuttings, water samples, or other special information required for and water resource mapping; and
- (12) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 1031.005, subdivision 9.

Until the commissioner adopts rules under this chapter to replace rules relating to wells and borings that were adopted under chapter 156A, the rules adopted under chapter 156A shall remain in effect.

Subd. 6. Fees for variances. The commissioner shall charge a nonrefundable application fee of \$100 to cover the administrative cost of processing a request for a variance or modification of rules adopted by the commissioner under this chapter.

History: 1991 c 355 s 9-12

103I.105 ADVISORY COUNCIL ON WELLS AND BORINGS.

(a) The advisory council on wells and borings is established as an advisory council to the commissioner. The advisory council shall consist of 17 voting members. Of the 17 voting members:

- (1) one member must be from the department of health, appointed by the commissioner of health;
- (2) one member must be from the department of natural resources, appointed by the commissioner of natural resources;
- (3) one member must be a member of the Minnesota geological survey of the University of Minnesota, appointed by the director;
- (4) one member must be a licensed exploratory borer;
- (5) one member must be a licensed elevator shaft contractor;
- (6) two members must be members of the public who are not connected with the business of exploratory boring or the well drilling industry;
- (7) one member must be from the pollution control agency, appointed by the commissioner of the pollution control agency;
- (8) one member must be from the department of transportation, appointed by the commissioner of transportation;
- (9) one member from the board of water and soil resources appointed by its chair;
- (10) one member must be a monitoring well contractor; and
- (11) six members must be residents of this state appointed by the commissioner, who are actively engaged in the well drilling industry, with not more than two from the seven-county metropolitan area and at least four from other areas of the state who represent different geographical regions.

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

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

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

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

(d) The terms of the appointed members and the compensation and removal of all members are governed by section 15.059, except section 15.059, subdivision 5, relating to expiration of the advisory council does not apply.

History: 1991 c 355 s 13

103I.111 LOCAL AUTHORITY OVER WELLS AND BORINGS.

[For text of subs 1 and 2, see M.S.1990]

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

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

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

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

[For text of subs 4 to 8, see M.S.1990]

History: 1991 c 355 s 14-17

1031.205 WELL CONSTRUCTION.

Subdivision 1. Notification required. (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the commissioner is filed with the commissioner with the filing fee in section 1031.208. If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

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

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells unless the commissioner has delegated the permitting or notification authority under section 1031.111.

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

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

[For text of subd 2, see M.S.1990]

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

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

Subd. 4. License required. (a) Except as provided in paragraph (b), (c), or (d), a person may not drill, construct, repair, or seal a well unless the person has a well contractor's license in possession.

(b) A person may construct a monitoring well if the person:

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

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

(3) is a professional engineer registered with the board of architecture, engineering, land surveying, or landscape architecture;

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

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

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

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

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

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

(3) installing well pumps or pumping equipment;

(4) sealing wells; or

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

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

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

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

[For text of subs 5 and 6, see M.S.1990]

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

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

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

Within 30 days after receiving the report, the commissioner shall send a copy of the report to the commissioner of natural resources, to the local soil and water conservation district where the well is located, and to the director of the Minnesota geological survey.

History: 1991 c 355 s 18-23

1031.208 WELL NOTIFICATION FILING FEES AND PERMIT FEES.

[For text of subd 1, see M.S.1990]

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

(1) for a well that is not in use under a maintenance permit, \$50 annually;

(2) for construction of a monitoring well, \$50;

(3) for a monitoring well that is unsealed under a maintenance permit, \$50 annually;

(4) for monitoring wells used as a leak detection device at a single motor fuel retail

outlet or petroleum bulk storage site excluding tank farms, the construction permit fee is \$50 per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$50 per site regardless of the number of monitoring wells located on site;

(5) for a groundwater thermal exchange device, in addition to the notification fee for wells, \$50;

(6) for a vertical heat exchanger, \$50;

(7) for construction of the dewatering well, \$50 for each well except a dewatering project comprising more than ten wells shall be issued a single permit for the wells recorded on the permit for \$500; and

(8) for a dewatering well that is unsealed under a maintenance permit, \$25 annually for each well, except a dewatering project comprising more than ten wells shall be issued a single permit for \$250 annually for wells recorded on the permit.

History: 1991 c 355 s 24

103I.222 USE OF POLYVINYL CHLORIDE.

The department shall adopt emergency rules within six months, and permanent rules within one year, of May 25, 1991, designed to allow use of flush threaded polyvinyl chloride casing and screens used for leak detection and monitoring wells at underground or aboveground petroleum storage tank sites.

History: 1991 c 175 s 1

103I.231 COMMISSIONER MAY ORDER REPAIRS.

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

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

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

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

(4) is a health or safety hazard; or

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

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

History: 1991 c 355 s 25

103I.235 SALE OF PROPERTY WHERE WELLS ARE LOCATED.

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

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

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

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

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

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

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

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

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

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

(i) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed, a fee of \$10 for receipt of a completed well disclosure certificate for filing. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health \$7.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(j) No new well disclosure certificate is required on property unless the status or

numbers of wells on the property has changed from the last previously filed well disclosure certificate.

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

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

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

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

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

History: 1991 c 292 art 2 s 2; 1991 c 355 s 26

NOTE: This section was also amended by Laws 1991, chapter 292, article 2, section 2, to read as follows:

***1031.235 Sale of property where wells are located.**

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

(b) At the time of closing of the sale, the disclosure statement information and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller. If the seller does not know of any wells on the property, a well disclosure certificate is not required; however, the deed or other instrument of conveyance must contain the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required; however, the deed or other instrument of conveyance must contain the statement: "The purchaser certifies the purchaser does not know of any wells on the property."

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

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

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

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

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

(f) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance either contains the statement "The Seller certifies that the Seller does not know of any wells on the described real property," or is accompanied by the well disclosure certificate required by this subdivision. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. The county recorder or registrar of titles shall transmit the well disclosure certificate to the commissioner of health within 15 days after receiving the well disclosure certificate. The commissioner shall maintain the well disclosure certificate for at least six years. The commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original. The commissioner shall charge the buyer of the property a fee of \$10 for the processing of the well disclosure certificate.

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

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

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

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

Subd. 2. Liability for failure to disclose. Unless the buyer and seller agree to the contrary, in writing, before the closing

of the sale, a seller who fails to disclose the existence or known status of a well at the time of sale and knew or had reason to know of the existence or known status of the well, is liable to the buyer for costs relating to sealing of the well and reasonable attorney fees for collection of costs from the seller, if the action is commenced within six years after the date the buyer closed the purchase of the real property where the well is located."

NOTE: Subdivision 1, paragraph (j), as added by Laws 1991, chapter 355, section 26, is effective January 1, 1993. See Laws 1991, chapter 355, section 55.

1031.301 WELL SEALING REQUIREMENTS.

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

- (1) the well is contaminated;
- (2) the well was attempted to be sealed but was not sealed according to the provisions of this chapter; or
- (3) the well is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

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

(c) The property owner must have a well contractor or limited well sealing contractor seal a well consistent with provisions of this chapter.

[For text of subs 2 to 4, see M.S.1990]

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

History: 1991 c 355 s 27,28

1031.311 IDENTIFICATION AND SEALING OF WELLS ON STATE PROPERTY.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. **Prohibition on state land purchased without well identification.** The state may not purchase or sell a fee interest in real property without identifying the location of all wells on the property, whether in use, not in use, or sealed, and making provisions to have the wells not in use properly sealed at the cost of the seller as part of the contract. For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance under this subdivision. The deed or other instrument of conveyance evidencing the sale may not be recorded with the county recorder or registrar of titles unless this subdivision is complied with. Failure to comply with a requirement of this subdivision does not impair:

- (1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or
- (2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

History: 1991 c 355 s 29

1031.331 WELL SEALING COST-SHARE PROGRAM.

[For text of subd 1, see M.S.1990]

Subd. 2. **Criteria for selecting counties for well sealing.** (a) The board of water and soil resources, in selecting counties for participation, shall consult with the commissioners of natural resources, the pollution control agency, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

- (1) diversity of well construction;
- (2) diversity of geologic conditions;
- (3) current use of affected aquifers;

- (4) diversity of land use; and
- (5) aquifer susceptibility to contamination by unsealed wells.

(b) After July 1, 1991, only well sealings that are a part of, or responsive to the following are eligible for assistance:

- (1) the priority actions identified in an approved comprehensive local water plan, as defined in section 103B.3363, subdivision 3; or
- (2) a plan that is undergoing local review and comment as described in section 103B.255, subdivision 8.

[For text of subs 3 to 6, see M.S.1990]

History: 1991 c 355 s 30

1031.525 WELL CONTRACTOR'S LICENSE.

Subdivision 1. Application. (a) A person must file an application and application fee with the commissioner to apply for a well contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

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

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

(2) meets the well contractor license requirements under provisions of this chapter.

[For text of subs 2 and 3, see M.S.1990]

Subd. 4. Issuance of license. If an applicant meets the experience requirements established by rule, passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a well contractor's license.

[For text of subs 5 to 7, see M.S.1990]

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

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

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

(d) At the time of the renewal, the commissioner must have on file all properly completed well reports, well sealing reports, reports of excavations to construct elevator shafts, well permits, and well notifications for work conducted by the licensee since the last license renewal.

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

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

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

History: 1991 c 355 s 31-34

1031.531 LIMITED WELL CONTRACTOR'S LICENSE.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. Bond. (a) As a condition of being issued a limited well contractor's license for constructing, repairing, and sealing drive point wells or dug wells, sealing wells, or constructing, repairing, and sealing dewatering wells, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. As a condition of being issued a limited well contractor's license for installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing, or installing well pumps or pumping equipment, the applicant must submit a corporate surety bond for \$2,000 approved by the commissioner. The bonds required in this paragraph must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bonds are in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of a bond required in paragraph (a), the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

[For text of subs 6 and 7, see M.S.1990]

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

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

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

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

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

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

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

History: 1991 c 355 s 35-37

1031.535 ELEVATOR SHAFT CONTRACTOR'S LICENSE.

[For text of subs 1 to 7, see M.S.1990]

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

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

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

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

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

(1) the licensee must include an additional late fee set by the commissioner under section 16A.128; and

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

History: 1991 c 355 s 38,39

1031.541 MONITORING WELL CONTRACTORS.

[For text of subs 1 to 3, see M.S.1990]

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

(b) The renewal application fee shall be set by the commissioner under section 16A.128.

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

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

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

(1) the registered person must include an additional late fee set by the commissioner under section 16A.128; and

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

History: 1991 c 355 s 40,41

1031.545 REGISTRATION OF DRILLING MACHINES REQUIRED.

[For text of subd 1, see M.S.1990]

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

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$50 registration fee.

(c) A registration is valid for one year.

History: 1991 c 355 s 42

1031.601 EXPLORATORY BORING PROCEDURES.

[For text of subs 1 to 3, see M.S.1990]

Subd. 4. Map of borings. By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources a county road map having a scale of one-half inch equal to one mile, as prepared by the department of transportation, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. Exploratory boring that is proposed on the map may not be commenced later than 180 days after submission of the map, unless a new map is submitted.

[For text of subs 5 to 9, see M.S.1990]

History: 1991 c 228 s 2

1031.605 SUBMISSION OF DATA FROM EXPLORATORY BORINGS.

[For text of subs 1 to 3, see M.S.1990]

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

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

(c) Notwithstanding paragraph (b), exploration drill core and samples submitted before the time required by paragraph (a) become public data no later than five years after receipt of the exploration drill core and samples by the commissioner of natural resources even if the lease or other type of exploration agreement on the property from which the exploration drill core and samples were obtained has not terminated.

[For text of subd 5, see M.S.1990]

History: 1991 c 228 s 3

1031.621 PERMITS FOR GROUNDWATER THERMAL EXCHANGE DEVICES.

[For text of subs 1 and 2, see M.S.1990]

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

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

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

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

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

[For text of subd 4, see M.S.1990]

History: 1991 c 355 s 43

1031.701 ADMINISTRATIVE REMEDIES.

Subdivision 1. **Denial of license, registration, or renewal.** (a) The commissioner may deny an application for a license or registration if the applicant has violated a provision of this chapter.

(b) The commissioner may refuse renewal for failure to submit a well report or well sealing report, failure to report an excavation to construct an elevator shaft, failure to obtain a well permit, failure to file a notification, or failure to obtain continuing education credit.

[For text of subs 2 and 3, see M.S.1990]

Subd. 4. Corrective orders. (a) The commissioner may issue corrective orders for persons to comply with the provisions of this chapter. The corrective order must state the deficiencies that constitute the violation, the specific statute or rule violated, and the time period in which the deficiencies must be corrected.

(b) If the person believes that the information contained in the order is in error, the person may ask the commissioner to reconsider those parts of the order that the person alleges to be in error. The person shall submit the request in writing to the commissioner within seven days after receipt of the order. The request must specify which parts of the order are alleged to be in error and provide documentation to support the allegation of the error. The commissioner shall respond to requests within 15 calendar days after receipt of the request.

(c) A request for reconsideration does not stay the corrective order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order. The commissioner's disposition of a request for reconsideration is final.

(d) If a deficiency specified in a corrective order has not been corrected within the specified time period, the commissioner shall issue a notice of noncompliance which identifies each uncorrected deficiency and assesses the administrative penalty for the deficiency authorized in section 103I.705.

History: 1991 c 355 s 44,45

103I.705 ADMINISTRATIVE PENALTIES.

[For text of subd 1, see M.S.1990]

Subd. 2. Sealing wells, borings, and elevator shafts. A well contractor or limited well sealing contractor who seals a well, elevator shaft or boring, a monitoring well contractor who seals a monitoring well or environmental borehole, or a well contractor or an elevator shaft contractor who seals a hole that was used for an elevator shaft under a corrective order of the commissioner in a manner that does not comply with rules adopted under this chapter, shall be assessed an administrative penalty of \$500.

Subd. 3. Well or boring construction and location. A well contractor, limited well contractor, elevator shaft contractor, or monitoring well contractor working under a corrective order of the commissioner who fails to comply with the rules adopted under this chapter relating to location of wells or borings, grouting, materials, or construction techniques shall be assessed an administrative penalty of \$500.

Subd. 4. Well construction and machinery. A well contractor, limited well contractor, elevator shaft contractor, or monitoring well contractor working under a corrective order shall be assessed an administrative penalty of \$250 if the contractor fails as required in the order:

(1) to have a plan review approved before a well is constructed; construct a well without if a plan review is required;

(2) to have a permit or to file notification before a well is constructed;

(3) to register a drilling machine or hoist or to display the state decal and the registration number on the machine; or

(4) to comply with the rules adopted under the provisions of this chapter relating to disinfection of wells and submission of well construction or well sealing logs and water samples.

Subd. 5. False information. A person under a corrective order shall be assessed an administration penalty of \$250 if the person:

- (1) fails to disclose or falsifies information about the status and location of wells on property before signing an agreement of sale or transfer of the property; or
- (2) fails to disclose or falsifies information on a well disclosure certificate.

[For text of subd 6, see M.S.1990]

History: 1991 c 355 s 46-49

103I.711 IMPOUNDING OF EQUIPMENT.

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

[For text of subd 2, see M.S.1990]

History: 1991 c 355 s 50