

CHAPTER 18E

CHEMICAL INCIDENT REIMBURSEMENT

18E.03 Agricultural chemical response and reimbursement account.

18E.05 Agricultural chemical response compensation board.

18E.04 Reimbursement or payment of response costs.

18E.03 AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT.

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

Subd. 4. Fee through 1990. (a) The response and reimbursement fee consists of the surcharge fees in this subdivision and shall be collected until March 1, 1991.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, that is equal to 0.1 percent of sales of the pesticide in the state and sales of pesticides for use in the state during the period April 1, 1990, through December 31, 1990. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale location and the distributors.

(c) The commissioner shall impose a ten cents per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the license application of persons licensed under chapters 18B and 18C consisting of:

(1) a \$150 surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a \$150 surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a \$50 surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a \$20 surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a \$20 surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a \$25 surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

(g) Paragraphs (c) to (f) apply to sales, licenses issued, applications received for licenses, and inspection fees imposed on or after July 1, 1990.

Subd. 5. Fee after 1990. (a) The response and reimbursement fee for calendar years after calendar year 1990 consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined and imposed annually as required under subdivision 3. The amount of the surcharges shall be proportionate to the surcharges in subdivision 4.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of gross sales of the pesticide in the state and sales of the pesticide for use in the state during the previous calendar year. No surcharge is required if the surcharge amount based upon percent of annual gross sales is less than \$10. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale locations and the distributors.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:

(1) a surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee

under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

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

History: 1991 c 355 s 1,2

18E.04 REIMBURSEMENT OR PAYMENT OF RESPONSE COSTS.

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

Subd. 4. Reimbursement payments. (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:

(1) 90 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than or equal to \$100,000; and

(2) 100 percent of the total reasonable and necessary corrective action costs greater than \$100,000 but less than or equal to \$200,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

Subd. 5. Reimbursement or payment decisions. (a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.

(b) The board must issue an order granting or denying a request within 30 days following the board meeting at which the board votes to grant or deny a request for reimbursement or for payment under subdivision 1, 2, or 3.

(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.

(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.

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

History: 1991 c 355 s 3,4

18E.05 AGRICULTURAL CHEMICAL RESPONSE COMPENSATION BOARD.

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

Subd. 3. Procedures. The board must receive a completed application at least 30 days before a board meeting in order for a request for reimbursement or payment to be considered at that meeting, unless the applicant and the commissioner agree to a longer time period. The board may waive the 30-day requirement if it determines that undue financial hardship to the applicant will result if action is delayed until the next regular meeting. The board must act upon a completed application request at the next regular board meeting, unless additional information is required from the applicant or the commissioner. If the board denies reimbursement or payment, its decision may be appealed in a contested case proceeding under chapter 14.

History: 1991 c 355 s 5