

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1501 Docket No. 05.0009.0986

DATE RECEIVED 7/~~13~~6/88 ADOPTED W/O HEARING X

REVIEW DATE 7/~~15~~18/88 EMERGENCY RULE _____

DUE DATE 7/20/88 REVISOR APPROVED _____

APPROVED 7.20.88 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

8/17/87 Date published in State Register
✓ Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

18B.08 Statutory Authority
yes Small Business Statement
No Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement
no Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

4/13/88 Date 30/25 days before adoption
yes Notice attached
_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

4/18/88 Date 30/25 days before adoption

✓ 180-day deadline from:

5/13/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29)~~ (emergency rules)

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

6/28/88 Date

✓ Written requests, submissions or comments (5)
one comment to A.G.

✓ Declaration of attorney

Paul Strandberg ~~Name~~ of SAAG representing agency

✓ ~~Notice of Submission to Atty. Gen.~~ Stet (if applicable)

✓ Aff. of Mailing Notice to Atty. Gen. (if applicable)

ATTORNEY GENERAL

July 21, 1988

Carol Milligan, Management Analyst
Planning Division, Department of Agriculture

Martha J. Casserly
Special Assistant Attorney General

6-6839

In the Matter of the Adopted Rules Relating to
Pesticide Chemigation Safety

The above-referenced rule has been approved as to its legality by the Attorney General on July 20, 1988.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:bbl
Enclosures
cc: Paul Strandberg
Duane Harves
Maryanne Hruby
Jerry Wright, U of M

Department of Agriculture

Adopted Permanent Rules Relating to Pesticide Chemigation Safety

Rules as Adopted

1505.2000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, section 18B.01 apply to parts 1505.2000 to 1505.2070.

Subp. 2. **Anti-pollution device.** "Anti-pollution device" means mechanical equipment used to reduce the hazard to the environment because of chemigation and includes, but is not limited to, interlock, check valve, flow interrupter, vacuum relief device, automatic low pressure drain, and reduced pressure zone backflow preventer.

Subp. 3. **Automatic low pressure drain valve.** "Automatic low pressure drain valve" means a self-activating device effectively designed and constructed to drain that portion of an irrigation pipeline or conduit whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down.

Subp. 4. **Calibration device.** "Calibration device" means equipment designed to determine the rate of chemical injection into the irrigation system.

Subp. 5. **Check valve.** "Check valve" means a device effectively designed and constructed to provide a positive (absolute) closure of an irrigation pipeline or conduit or pesticide injection line that effectively prohibits the flow of material or liquid in the opposite direction from that desired when operation of the irrigation system pumping plant or pesticide injection unit fails or is shut down.

Subp. 6. **Chemigation.** "Chemigation" means the process of applying pesticides to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water obtained from any source of

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ground or surface water during the irrigation process.

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit that connects directly to a source of ground or surface water, through which a mixture of water and pesticides are drawn and applied to land, crops, or plants. The term does not include a hand-held, hose-end sprayer or other similar device that is constructed so that an interruption of water flow automatically prevents or precludes backflow to the water source.

Subp. 8. **Flow interrupter.** "Flow interrupter" means a device effectively designed and constructed to provide positive (absolute) interruption or secession of material or liquid flow in either direction upon pesticide injection unit shutdown or failure.

Subp. 9. **Injection unit.** "Injection unit" means a chemical metering pump or device that withdraws the pesticide from a supply tank and injects the pesticide into the irrigation system during a chemigation operation and that is effectively designed and built of materials that are compatible with the pesticide and capable of being interlocked with the irrigation system.

Subp. 10. **Interlock.** "Interlock" means the arrangement or interconnection of irrigation pumps and pesticide injection units, other pumps, or supply tanks so that in the event of a component malfunction or failure, shutdown of all pumps will occur.

Subp. 11. **Irrigation.** "Irrigation" means the act of supplying water to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water.

Subp. 12. **Operating chemigation equipment.** "Operating chemigation equipment" includes, but is not limited to:

A. preparing the solution and filling the pesticide supply ~~container~~ tank;

B. calibrating injection equipment;

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C. starting and stopping equipment when injection of chemicals is involved; and

D. supervising the chemigation equipment to assure its safe operation.

Subp. 13. **Reduced pressure zone backflow preventer.** "Reduced pressure zone backflow preventer" means a device designed to prevent backflow consisting of two spring-loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

Subp. 14. **Supervision.** "Supervision" means the direct management of the chemigating system during its operation when chemicals are being applied.

Subp. 15. **Vacuum relief valve.** "Vacuum relief valve" means a device effectively designed and built to automatically relieve or break vacuum in an irrigation pipeline or conduit due to system failure or shutdown.

Subp. 16. **Water supply.** "Water supply" means a source of water that is connected to a single irrigation system such as a single well, group of wells, dug pit, lake, river, stream, or public water supply system.

1505.2010 REGISTRATION.

Subpart 1. **Permit required.** An owner or operator of a chemigation system shall obtain a chemigation permit before applying pesticides through the irrigation equipment. The commissioner has 45 days to review and approve the application or advise the applicant in writing of an unsatisfactory review and detail all necessary revisions.

Subp. 2. **Application.** An applicant for a chemigation permit shall submit an application on forms supplied by the commissioner. The application must include, but is not limited to:

A. the name, address, private applicator certification number, and telephone number of the owner or

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operator to whom a permit is to be issued;

B. a diagram or description for the irrigation system showing the use of anti-pollution devices;

C. a diagram showing devices and practices for preventing surface runoff and handling accumulations due to runoff;

D. a plan for use of containment relating to pesticide storage sites and supply tanks at the chemigation site, to be reviewed and approved by the commissioner;

E. the number and location, by legal description, of well heads that may be involved in the chemigation process, the location of surface water supply withdrawal points, and the location of the public water supply;

F. a copy of the owner's or operator's Department of Natural Resources water appropriation permit; and

G. a time table for the routine inspection planned for the chemigation system.

Subp. 3. **Permit term; fee.** The application fee for an initial chemigation user's permit established by Minnesota Statutes, section 18B.08, subdivision 4, must be submitted with the initial application. A chemigation user's permit must be renewed each year upon completing an application form and an "annual use report" form provided by the commissioner. Prior to changing any part of the permitted system, a revised application form must be submitted. The commissioner shall have 45 days to review and approve or deny the application.

Subp. 4. **Expedited initial conditional permit.** An owner or operator of a chemigation system wishing to expedite the chemigation initial permit process shall submit an application for a conditional permit on forms provided by the commissioner and include the initial fee required by Minnesota Statutes, section 18B.08, subdivision 4. The owner or operator shall also include with the application a letter describing the need for expediting the permit. The commissioner has five business days in which to review and approve or deny the conditional permit. The conditional permit is valid for 40 days after which the

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commissioner shall issue or deny a full year chemigation user's permit.

1505.2020 ANTI-POLLUTION DEVICES AND PROCEDURES.

Subpart 1. **Chemigation through irrigation systems.**

A. Pesticides may be used through irrigation systems not connected to public water supply systems for chemigation purposes, if the pesticide is labeled for this method of application.

B. Pesticides may be used through irrigation systems connected to a public water supply system if the pesticide is labeled for this method of application.

C. All chemigation systems must be calibrated to deliver labeled rates and must be fitted with functional anti-pollution devices as detailed in subpart 4 that prevent the backflow of pesticides or pesticide-water mixtures into water supplies during times of irrigation system failure or equipment shutdown.

Subp. 2. **Pesticide supply tank.** A pesticide supply tank used to supply ~~the~~ an injection system ~~for-a-single-injection~~ during chemigation may be located no closer than ~~15~~ 20 feet from the irrigation water supply, ~~such-as-a~~ or well head, unless positioned in ~~an-approved~~ a containment unit as specified in subpart 3. Pesticide preparation or filling areas ~~and-pesticide-storage-sites~~ may not be located within 150 feet of the water supply. The chemical injection point must be located down line from all anti-pollution devices located in the supply pipeline.

Subp. 3. **Storage; supply; containment.** Pesticide supply tanks and pesticide storage sites ~~in-use-longer~~ used for more than three consecutive months ~~at-the-chemigation-site-and-any-pesticide-supply-container-used~~ in conjunction with ~~the~~ a chemigation system must be provided with a means of containment ~~that-will~~ when located within 150 feet of the irrigation water supply, or well head in order to prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of

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the supply container. ~~Materials used for containment must be compatible with the pesticide stored in them.~~ The containment unit must be compatible with the stored pesticide and must be designed to withstand a full hydrostatic head of discharged liquid. The containment unit may only be constructed of commissioner-approved synthetic materials, stainless steel, reinforced concrete, or reinforced masonry. The containment unit may be portable.

adding a new requirement

Subp. 4. **Anti-pollution devices; valves.** Anti-pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to H G, and may be installed as portable devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide. ~~If two check valves are used, each check valve must be immediately preceded in the system by a vacuum relief valve and an automatic low pressure drain valve. Check valves, when installed, must be level, except that a deviation of not more than ten degrees from the horizontal is permitted.~~

B

B. A reduced pressure zone backflow preventer must be provided for chemigation systems connected to a public water supply. The reduced pressure zone backflow preventer must be located in the irrigation supply line between the irrigation system supply pump and the point of injection of the pesticide.

~~(1)~~ ~~A~~ The reduced pressure zone backflow preventer must be certified by a recognized testing laboratory acceptable to the commissioner. The commissioner shall keep a list of acceptable testing laboratories and manufacturers models.

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~~(2) A check valve must be of heavy-duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be quick closing by spring action and tight sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the rated manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.~~

~~C. Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.~~

~~C. When required to be provided by item A, a vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4 inch diameter for a four inch pipe, one inch diameter for a five to eight inch pipe, and two inch diameter for a ten or 12 inch pipe.~~

~~D. When required to be provided by item A, an automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4 inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit, and must be at least two inches above grade. The device must be positioned, or the location grade adjusted, so that when draining occurs, liquid will flow away from any water supply.~~

C. When two check valves are used, each check valve must be equipped with an inspection port or similar device and be immediately preceded in the irrigation system by a vacuum

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relief valve and automatic low pressure drain valve.

The inspection port must be installed in a manner on the horizontal irrigation pipeline on the supply side of each check valve so that the inlet to the automatic low pressure drain can be observed during irrigation system shutdown.

The vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe; a one-inch diameter for a five- to eight-inch pipe; and a two-inch diameter for a ten- or 12-inch pipe.

The automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit and must be at least two inches above grade. The device must be positioned, or the location of the grade adjusted, so that when draining occurs, liquid will flow away from any water supply.

A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be rated a minimum of 150 pounds per square inch working pressure and be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the valid manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high, retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.

Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy

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has been demonstrated to the satisfaction of the commissioner and approval granted.

Check valves, when installed, must be level except that a deviation of not more than ten degrees from the horizontal is permitted.

~~E.~~ D. A flow interrupter device interlocked with the injection unit must be provided in the pesticide supply line between the pesticide injection unit and the supply tank. A normally closed, solenoid-operated valve or other similar device is an acceptable method to positively prevent flow of material or liquid during injection system failure or shutdown.

~~F.~~ E. A check valve that is resistant to chemicals must be provided on the pesticide injection line between the point of pesticide injection into the irrigation system and the pesticide injection unit, pump, or solution tank, positioned to prevent the flow of liquid from the irrigation line to the pesticide injection device.

~~G.~~ F. A mechanical or electrical interlock must be provided between the irrigation system or pump and the pesticide injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the pesticide injection unit.

~~H.~~ G. A low pressure switch must be located on the irrigation pipeline that will shut down the irrigation system's power supply when the water pressure decreases to the point where the pesticide distribution is adversely affected.

Subp. 5. **Purging system.** The irrigation system must be operated for at least ten minutes after the pesticide injection is terminated to allow for a complete purging of the pesticide from the system.

Subp. 6. **Posting of sites.** Sites being treated with pesticides through irrigation systems must be posted according to label instructions throughout the period of pesticide treatment.

1505.2030 RECORDS AND REPORTS.

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The chemigation permit holder shall record daily the kinds and amounts of pesticides applied through each chemigation system. These records must be made available to the commissioner and retained for five years from the date of application. Records detailing dates of inspection, the names of inspectors, and the condition of the chemigation unit must also be kept.

1505.2040 RESPONSIBILITY.

An individual operating chemigation equipment under a chemigation user's permit is responsible for the safe operation of the chemigation equipment, and must be supervised by the permit holder.

1505.2050 COMMISSIONER'S RESPONSIBILITY.

The commissioner shall periodically provide chemigation safety information to each person holding a chemigation user's permit.

1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.

Subpart 1. **Official entry.** For the purpose of carrying out parts 1505.2000 to 1505.2070, the commissioner, the commissioner's agents, or other designated state agency or county officials may enter a premises at a reasonable time to:

A. inspect equipment subject to parts 1505.2000 to 1505.2070;

B. inspect or sample water, lands, or crops reported to be exposed to pesticides;

C. inspect or investigate complaints or injury to humans, crops, land, or environment;

D. sample pesticides being applied or to be applied; and

E. observe the use and application of pesticides.

Subp. 2. **Proper installation.** Irrigation systems, devices, valves, pesticide injection units, pumps, and solution tanks used for chemigation purposes must be installed and

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maintained according to manufacturer's recommendations to ensure proper function during chemigation.

Subp. 3. **Calibration and inspection.** During periods of chemigation, the owner or operator shall periodically calibrate the pesticide injection system. The owner or operator shall also periodically inspect the entire system for proper operation.

Subp. 4. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2000 to 1505.2070, the Department of Agriculture ~~shall~~ may allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement, required in parts 1505.2000 to 1505.2070. Prior to making any changes in the system, the applicant shall submit a revised chemigation permit application to the commissioner. The commissioner has 45 days to review the application and issue a new permit or advise the applicant in writing of an unsatisfactory review, detailing all necessary revisions.

1505.2070 PROHIBITED ACTS.

It is a violation of Minnesota Statutes, chapter 18B, for a person to apply pesticides to land, crops, or plants in or with irrigation water in violation of parts 1505.2000 to 1505.2070.

EFFECTIVE DATE. Parts 1505.2000 to 1505.2070 become effective January 1, 1989.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 21 1988

Joan Anderson Growe
Secretary of State

2:50 P.M.

APPROVED AS TO FORM AND LEGALITY
July 20 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture
Agronomy Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Chemigation.

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing chemigation. The adoption of these rules is authorized by M.S. sec. 18B.08, subd. 5, which permits the agency to develop specific requirements for implementation of a program to regulate application of pesticides by irrigation.

The Department requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Ms. Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements will be received during regular business hours over the telephone at (612) 296-6906, and in person at the above address.

All statements of information and opinions shall be accepted until September 8, 1987. Any written material received by the Department shall become part of the rulemaking record to be submitted to the Attorney General or the administrative law judge in the event that the rule is adopted.

7-29, 1987

Rollin M Dennistoun
Dep. Comm. for
Jim Nichols
Commissioner

Rollin M. Dennistoun
Deputy Commissioner

Department of Agriculture

Proposed Permanent Rules Relating to Pesticide Chemigation Safety

Rules as Proposed (all new material)

1505.2000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, section 18B.01 apply to parts 1505.2000 to 1505.2070.

Subp. 2. **Anti-pollution device.** "Anti-pollution device" means mechanical equipment used to reduce the hazard to the environment because of chemigation and includes, but is not limited to, interlock, check valve, flow interrupter, vacuum relief device, automatic low pressure drain, and reduced pressure zone backflow preventer.

Subp. 3. **Automatic low pressure drain valve.** "Automatic low pressure drain valve" means a self-activating device effectively designed and constructed to drain that portion of an irrigation pipeline or conduit whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down.

Subp. 4. **Calibration device.** "Calibration device" means equipment designed to determine the rate of chemical injection into the irrigation system.

Subp. 5. **Check valve.** "Check valve" means a device effectively designed and constructed to provide a positive (absolute) closure of an irrigation pipeline or conduit or pesticide injection line that effectively prohibits the flow of material or liquid in the opposite direction from that desired when operation of the irrigation system pumping plant or pesticide injection unit fails or is shut down.

Subp. 6. **Chemigation.** "Chemigation" means the process of applying pesticides to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse

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sites in or with irrigation water obtained from any source of ground or surface water during the irrigation process.

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit that connects directly to a source of ground or surface water, through which a mixture of water and pesticides are drawn and applied to land, crops, or plants. The term does not include a hand-held, hose-end sprayer or other similar device that is constructed so that an interruption of water flow automatically prevents or precludes backflow to the water source.

Subp. 8. **Flow interrupter.** "Flow interrupter" means a device effectively designed and constructed to provide positive (absolute) interruption or secession of material or liquid flow in either direction upon pesticide injection unit shutdown or failure.

Subp. 9. **Injection unit.** "Injection unit" means a chemical metering pump or device that withdraws the pesticide from a supply tank and injects the pesticide into the irrigation system during a chemigation operation and that is effectively designed and built of materials that are compatible with the pesticide and capable of being interlocked with the irrigation system.

Subp. 10. **Interlock.** "Interlock" means the arrangement or interconnection of irrigation pumps and pesticide injection units, other pumps, or supply tanks so that in the event of a component malfunction or failure, shutdown of all pumps will occur.

Subp. 11. **Irrigation.** "Irrigation" means the act of supplying water to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water.

Subp. 12. **Operating chemigation equipment.** "Operating chemigation equipment" includes, but is not limited to:

A. preparing the solution and filling the pesticide supply container;

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B. calibrating injection equipment;

C. starting and stopping equipment when injection of chemicals is involved; and

D. supervising the chemigation equipment to assure its safe operation.

Subp. 13. **Reduced pressure zone backflow preventer.** "Reduced pressure zone backflow preventer" means a device designed to prevent backflow consisting of two spring-loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

Subp. 14. **Supervision.** "Supervision" means the direct management of the chemigating system during its operation when chemicals are being applied.

Subp. 15. **Vacuum relief valve.** "Vacuum relief valve" means a device effectively designed and built to automatically relieve or break vacuum in an irrigation pipeline or conduit due to system failure or shutdown.

Subp. 16. **Water supply.** "Water supply" means a source of water that is connected to a single irrigation system such as a single well, group of wells, dug pit, lake, river, stream, or public water supply system.

1505.2010 REGISTRATION.

Subpart 1. **Permit required.** An owner or operator of a chemigation system shall obtain a chemigation permit before applying pesticides through the irrigation equipment. The commissioner has 45 days to review and approve the application or advise the applicant in writing of an unsatisfactory review and detail all necessary revisions.

Subp. 2. **Application.** An applicant for a chemigation permit shall submit an application on forms supplied by the commissioner. The application must include, but is not limited to:

A. the name, address, private applicator

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certification number, and telephone number of the owner or operator to whom a permit is to be issued;

B. a diagram or description for the irrigation system showing the use of anti-pollution devices;

C. a diagram showing devices and practices for preventing surface runoff and handling accumulations due to runoff;

D. a plan for use of containment relating to pesticide storage sites and supply tanks at the chemigation site, to be reviewed and approved by the commissioner;

E. the number and location, by legal description, of well heads that may be involved in the chemigation process, the location of surface water supply withdrawal points, and the location of the public water supply;

F. a copy of the owner's or operator's Department of Natural Resources water appropriation permit; and

G. a time table for the routine inspection planned for the chemigation system.

Subp. 3. **Permit term; fee.** The application fee for an initial chemigation user's permit established by Minnesota Statutes, section 18B.08, subdivision 4, must be submitted with the initial application. A chemigation user's permit must be renewed each year upon completing an application form and an "annual use report" form provided by the commissioner. Prior to changing any part of the permitted system, a revised application form must be submitted. The commissioner shall have 45 days to review and approve or deny the application.

Subp. 4. **Expedited initial conditional permit.** An owner or operator of a chemigation system wishing to expedite the chemigation initial permit process shall submit an application for a conditional permit on forms provided by the commissioner and include the initial fee required by Minnesota Statutes, section 18B.08, subdivision 4. The owner or operator shall also include with the application a letter describing the need for expediting the permit. The commissioner has five business days in which to review and approve or deny the conditional permit.

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The conditional permit is valid for 40 days after which the commissioner shall issue or deny a full year chemigation user's permit.

1505.2020 ANTI-POLLUTION DEVICES AND PROCEDURES.

Subpart 1. **Chemigation through irrigation systems.**

A. Pesticides may be used through irrigation systems not connected to public water supply systems for chemigation purposes, if the pesticide is labeled for this method of application.

B. Pesticides may be used through irrigation systems connected to a public water supply system if the pesticide is labeled for this method of application.

C. All chemigation systems must be calibrated to deliver labeled rates and must be fitted with functional anti-pollution devices as detailed in subpart 4 that prevent the backflow of pesticides or pesticide-water mixtures into water supplies during times of irrigation system failure or equipment shutdown.

Subp. 2. **Pesticide supply tank.** A pesticide supply tank used to supply the injection system for a single injection during chemigation may be located no closer than 15 feet from the irrigation water supply, such as a well head, unless positioned in an approved containment unit. Pesticide preparation or filling areas and pesticide storage sites may not be located within 150 feet of the water supply. The chemical injection point must be located down line from all anti-pollution devices located in the supply pipeline.

Subp. 3. **Storage; supply; containment.** Pesticide storage sites in use longer than three months at the chemigation site and any pesticide supply container used in conjunction with the chemigation system must be provided with a means of containment that will prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of the supply container. Materials used for containment must be compatible with the pesticide

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stored in them.

Subp. 4. **Anti-pollution devices; valves.** Anti-pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to H, and may be installed as portable devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide. If two check valves are used, each check valve must be immediately preceded in the system by a vacuum relief valve and an automatic low pressure drain valve. Check valves, when installed, must be level, except that a deviation of not more than ten degrees from the horizontal is permitted.

B. A reduced pressure zone backflow preventer must be provided for chemigation systems connected to a public water supply. The reduced pressure zone backflow preventer must be located in the irrigation supply line between the irrigation system supply pump and the point of injection of the pesticide.

(1) A reduced pressure zone backflow preventer must be certified by a recognized testing laboratory acceptable to the commissioner. The commissioner shall keep a list of acceptable testing laboratories and manufacturers models.

(2) A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the rated manufacturer's working pressure of the valve for one

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minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.

Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.

C. When required to be provided by item A, a vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe, one inch diameter for a five- to eight-inch pipe, and two-inch diameter for a ten- or 12-inch pipe.

D. When required to be provided by item A, an automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit, and must be at least two inches above grade. The device must be positioned, or the location grade adjusted, so that when draining occurs, liquid will flow away from any water supply.

E. A flow interrupter device interlocked with the injection unit must be provided in the pesticide supply line between the pesticide injection unit and the supply tank. A normally closed, solenoid-operated valve or other similar device is an acceptable method to positively prevent flow of material or liquid during injection system failure or shutdown.

F. A check valve that is resistant to chemicals must be provided on the pesticide injection line between the point of pesticide injection into the irrigation system and the pesticide injection unit, pump, or solution tank, positioned to prevent

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the flow of liquid from the irrigation line to the pesticide injection device.

G. A mechanical or electrical interlock must be provided between the irrigation system or pump and the pesticide injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the pesticide injection unit.

H. A low pressure switch must be located on the irrigation pipeline that will shut down the irrigation system's power supply when the water pressure decreases to the point where the pesticide distribution is adversely affected.

Subp. 5. **Purging system.** The irrigation system must be operated for at least ten minutes after the pesticide injection is terminated to allow for a complete purging of the pesticide from the system.

Subp. 6. **Posting of sites.** Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment.

1505.2030 RECORDS AND REPORTS.

The chemigation permit holder shall record daily the kinds and amounts of pesticides applied through each chemigation system. These records must be made available to the commissioner and retained for five years from the date of application. Records detailing dates of inspection, the names of inspectors, and the condition of the chemigation unit must also be kept.

1505.2040 RESPONSIBILITY.

An individual operating chemigation equipment under a chemigation user's permit is responsible for the safe operation of the chemigation equipment, and must be supervised by the permit holder.

1505.2050 COMMISSIONER'S RESPONSIBILITY.

The commissioner shall periodically provide chemigation safety information to each person holding a chemigation user's

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permit.

1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.

Subpart 1. **Official entry.** For the purpose of carrying out parts 1505.2000 to 1505.2070, the commissioner, the commissioner's agents, or other designated state agency or county officials may enter a premises at a reasonable time to:

A. inspect equipment subject to parts 1505.2000 to 1505.2070;

B. inspect or sample water, lands, or crops reported to be exposed to pesticides;

C. inspect or investigate complaints or injury to humans, crops, land, or environment;

D. sample pesticides being applied or to be applied; and

E. observe the use and application of pesticides.

Subp. 2. **Proper installation.** Irrigation systems, devices, valves, pesticide injection units, pumps, and solution tanks used for chemigation purposes must be installed and maintained according to manufacturer's recommendations to ensure proper function during chemigation.

Subp. 3. **Calibration and inspection.** During periods of chemigation, the owner or operator shall periodically calibrate the pesticide injection system. The owner or operator shall also periodically inspect the entire system for proper operation.

Subp. 4. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2000 to 1505.2070, the Department of Agriculture shall allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement, required in parts 1505.2000 to 1505.2070. Prior to making any changes in the system, the applicant shall submit a revised chemigation permit application to the commissioner. The commissioner has 45 days to review the

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application and issue a new permit or advise the applicant in writing of an unsatisfactory review, detailing all necessary revisions.

1505.2070 PROHIBITED ACTS.

It is a violation of Minnesota Statutes, chapter 18B, for a person to apply pesticides to land, crops, or plants in or with irrigation water in violation of parts 1505.2000 to 1505.2070.

EFFECTIVE DATE. Parts 1505.2000 to 1505.2070 become effective January 1, 1989.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Pesticide Chemigation Safety

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1505

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture
Agronomy Services Division

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Pesticide Chemigation Safety

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt this rule is Minnesota Statutes, Section 18B.08.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The proposed rule applies to and would have an impact on farms that chemigate and are small businesses as defined by Minnesota Statutes section 14.115. The proposed rule is necessary to ensure groundwater protection during chemigation and must apply to large or small businesses.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

Date: 2-23-88

Jim Nichols

Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Rule of the Department of Agriculture Pertaining to the Regulation of Pesticides Applied Through Irrigation Systems (Chemigation)	STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a rule governing the permitting and use of chemigation systems. Minnesota Statute 18B.08 requires the department to adopt a rule to develop specific requirements for the implementation of a program to regulate the application of pesticides by irrigation. These rules include the development of a permit program, the inclusion of effective anti-siphon devices in the irrigation system, and the institution of a non-refundable application fee for each well that is to be used in applying pesticides by irrigation.

BACKGROUND

The protection of ground water from contamination by agricultural pesticides has been and will continue to be of major importance to the citizens of the State of Minnesota.

Chemigation systems allow for the introduction of pesticides into irrigation water. The sources of irrigation water are wells located close to areas of human habitation. Because of the potential for pesticides to be introduced into ground water via backsiphonage and back pressure, it is prudent to regulate chemigation systems in the State of Minnesota.

IMPACT ON SMALL BUSINESS

The farms using chemigation systems and therefore complying with the proposed rules could be considered small businesses.

The installation of anti-pollution equipment in irrigation systems affords maximum ground water protection and at the same time allows for use of the irrigation system for the application of pesticides. Less stringent compliance with the proposed rule (i.e., different anti-pollution equipment) jeopardizes ground water protection.

Reporting requirements and permit application information has been simplified to aid in compliance. Only information necessary for MDA follow-up is included.

The rule would not take effect until January 1, 1989, which allows small businesses adequate time to install anti-pollution devices and file an application for a use permit.

NEED FOR REASONABLENESS OF THE PROPOSED RULE

Section 1505.2000: The definitions are necessary to assure that the rule is clearly understood. The inclusion of definitions is reasonable so that MDA may consistently apply the rule to those who must comply with it.

Section 1505.2010:

Subparts 1 and 2. The permit application is necessary to gather information pertinent to the location, ownership, and operation of the chemigation system. The information requested is reasonable because it is the minimum information necessary for MDA to effectively conduct inspections of the system. The 45-day review time-frame is reasonable because it allows for an in-depth review of the anti-pollution requirements of the rule.

Subpart 3. The annual renewal process is necessary so that MDA is apprised of any changes in operation of the system. It is reasonable for MDA to be apprised of annual changes in operation so that the rule may be effectively enforced. The inclusion of an "annual use report" is necessary to monitor pesticide use. It is reasonable to monitor pesticide use because MDA is responsible for enforcing Minnesota Statutes, Chapter 18B, regarding pesticide use, storage, and handling.

Subpart 4. A conditional permit is necessary to give greater flexibility for the operation of a system that may need to be added because of changes in acreage requirements, pest pressures, or environmental conditions. The time-frame for the review of a conditional permit is reasonable, given the potential for loss of crop yields through a time delay. An explanation of the need is reasonable to apprise the department of regional pesticide use changes.

Section 1505.2020:

Subpart 1. It is necessary to indicate to chemigators that they must use only labeled pesticides at labeled rates because the use of labeled pesticides in chemigation systems

results in the control of target pests while minimizing the contamination of ground water. It is necessary to indicate to firms that backflow prevention devices are needed during irrigation system shutdown or equipment failure because these are the times when backflow of pesticides would most often occur. It is reasonable to indicate this to operators so that they will be aware of the general requirements for using pesticides in irrigation systems. It is reasonable to indicate this information to operators so that they will be in compliance with Minnesota Statutes, Chapter 18B.

Subpart 2. It is necessary to limit the distance from well heads to pesticide supply tanks and pesticide filling/storage areas in order to provide maximum well protection against pesticide spills. The distances given are reasonable and consistent with the Minnesota Department of Health Water Well Construction Code.

Subpart 3. It is necessary to require the containment of stored pesticides near wells in order to reduce the possibility that a spill of pesticides near a well would contaminate ground water. A 125% containment capacity is reasonable, given the reduction of containment capacity by rainwater and storage equipment. It is necessary to specify that containment vessels must be compatible with stored pesticides so that containment integrity is maintained. It is reasonable to indicate this because of potential chemical incompatibility with the containment vessel resulting in a pesticide spill and possibly ground water contamination. It is necessary to indicate a time frame for pesticide storage at the chemigation site to reduce the potential for contamination from spills. A three month time frame is reasonable because containment is provided during the time of pesticide use while still allowing the flexibility of not requiring containment during times of lesser need or use.

Subpart 4. It is necessary to clearly describe the specific anti-pollution devices/valves and also to indicate when they should be functional and the materials they may be constructed of so that the chemigation system is constructed and operated properly. It is reasonable to indicate this information so that operators will better be able to comply with specifications, thereby assuring the protection of ground water. It is reasonable to allow portable anti-pollution units to be used because use of particular chemigation systems may vary widely due to field differences in target pest pressure. It is necessary to make a destinction between systems connected to public water supply systems and those that are not because public water supply systems have more stringent requirements for backflow prevention control.

(A) It is necessary to indicate the exact location of the reduced pressure principle

device (RPP) or double check valve because the location dictates if there will be protection against the backsiphonage of pesticides. It is reasonable to locate the RPP or double check valve between the supply pump and the point of pesticide injection because the greatest potential source of ground water contamination could be backsiphonage from the point of pesticide injection.

(B) It is necessary to indicate that only a reduced pressure zone backflow preventer may be used for systems connected to public water supplies to conform with Minnesota Department of Health rules.

(1) It is necessary to indicate compliance with independent test standards to clearly define what type of RPP's are acceptable. Using devices certified by recognized testing laboratories is reasonable because the testing laboratories assure effective operation of an RPP over a wide range of pressures and conditions. A list of devices certified by recognized testing laboratories will be maintained for distribution to interested parties by the commissioner.

(2) It is necessary to describe the exact specifications required for check valves to clearly indicate what type of check valves are acceptable. The specifications are reasonable because they ensure that integral part of the chemigation system against failure (i.e., backsiphonage). It is also reasonable for the operator to choose from a list of devices certified by recognized testing laboratories, provided by the commissioner, so that the operator will be assured of using equipment that is designed for the intended purpose.

(C) It is necessary to indicate the exact location and acceptable valve orifice sizes of the vacuum relief valve because the location and valve orifice sizes will dictate if there will be protection against the backsiphonage of pesticides. The location and valve orifices are acceptable engineering practices.

(D) It is necessary to require an automatic low-pressure drain with a 3/4-inch orifice so that backsiphon protection is assured if there is a pressure drop in the system. The use of the low-pressure drain and its location in the system are accepted engineering practices. It is reasonable to direct any drainage away from the well so that contamination at the well does not occur.

(E) It is necessary to require a flow interupter device to be present and interlocked with the pesticide injection unit so that even if the unit is non-operational, venturi siphoning action from the flowing irrigation water will not cause pesticides to move into the irrigation

line past the injection unit from the supply tank. Stopping the flow of pesticides to the irrigation line is reasonable because pesticide over-application or spills may otherwise occur.

(F) A check valve at the point of pesticide injection into the irrigation system is necessary to prevent irrigation flow into the pesticide supply tank. It is reasonable to require this set-up because irrigation backflow could result in a pesticide spill.

(G) An interlock system is necessary to prevent continuing pesticide injection into a non-operational irrigation system. It is reasonable to prevent the pesticide flow so that a pesticide spill does not occur.

(H) A low pressure switch is necessary to prevent pesticide misapplication. It is reasonable to limit pesticide misapplication because misapplication results in label violations, lack of target pest control, possible plant damage, and possible ground water contamination.

Subpart 5. It is necessary to purge irrigation lines after pesticide injection to remove pesticides from the system. It is reasonable to remove pesticides from the system to eliminate plant damage or environmental damage.

Subpart 6. It is necessary to post lands that are chemigated to prevent entry into treated areas. It is reasonable to protect human health.

Section 1505.2030: A record of pesticides is required so that MDA may monitor pesticide use through irrigation systems. Records of inspections are required so that MDA is assured that all anti-pollution equipment is operational.

Section 1505.2040: It is necessary to clearly define an operator's responsibilities in order to assure greater accountability. It is reasonable to define the responsibilities so that MDA may more efficiently enforce these rules.

Section 1505.2050: It is necessary for the commissioner to periodically update the system user on safety practices so that human health is protected. Improper operation of the system may jeopardize human health through personal injury or ground water contamination.

Section 1505.2060:

Subpart 1. It is necessary to outline MDA's inspection responsibilities to eliminate

any potential conflicts with the operator. The inspection practices are within existing federal guidelines.

Subpart 2. It is necessary to specify that equipment must be installed and maintained according to manufacturers' guidelines so that proper functions are maintained. It is reasonable to maintain proper functions so that unreasonable, adverse effects on the environment do not occur.

Subpart 3. Periodic, routine inspection is necessary to effectively monitor the correct operation of the system. Correct operation is imperative if label application rates are not to be exceeded.

Subpart 4. It is necessary to allow for modifications in the system so that changes in technology and equipment availability may be addressed. Changes in the system that do not jeopardize ground water protection are reasonable. An additional review of revised applications is reasonable because time is needed for in-depth reviews.

Section 1505.2070: It is necessary to restate statutory requirements so that compliance is assured. It is reasonable to state required compliance so that MDA may enforce the rule more effectively.

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Pesticide Chemigation Safety

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE WIHTOUT
A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 13th day of April, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, persuant to Minnesota Statutes, sections 14.14, subdivision 1.a. and 14.22 OR 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me
this 13th day of April, 1988.

Diane M. Windham

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Pesticide Chemigation Safety

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, Sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, Section 18B.08.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The proposed rule applies to and would have an impact on farms that chemigate and are small businesses as defined by *Minnesota Statutes* section 14.115. The proposed rule is necessary to ensure groundwater protection during chemigation and must apply to large or small businesses.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

Dated: 23 February 1988

Jim Nichols, Commissioner
Department of Agriculture

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Rules as Proposed (all new material)

1505.2000 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, section 18B.01 apply to parts 1505.2000 to 1505.2070.

Subp. 2. **Anti-pollution device.** "Anti-pollution device" means mechanical equipment used to reduce the hazard to the environment because of chemigation and includes, but is not limited to, interlock, check valve, flow interrupter, vacuum relief device, automatic low pressure drain, and reduced pressure zone backflow preventer.

Subp. 3. **Automatic low pressure drain valve.** "Automatic low pressure drain valve" means a self-activating device effectively designed and constructed to drain that portion of an irrigation pipeline or conduit whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down.

Subp. 4. **Calibration device.** "Calibration device" means equipment designed to determine the rate of chemical injection into the irrigation system.

Subp. 5. **Check valve.** "Check valve" means a device effectively designed and constructed to provide a positive (absolute) closure of an irrigation pipeline or conduit or pesticide injection line that effectively prohibits the flow of material or liquid in the opposite direction from that desired when operation of the irrigation system pumping plant or pesticide injection unit fails or is shut down.

Subp. 6. **Chemigation.** "Chemigation" means the process of applying pesticides to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water obtained from any source of ground or surface water during the irrigation process.

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit that connects directly to a source of ground or surface water, through which a mixture of water and pesticides are drawn and applied to land, crops, or plants. The term does not include a hand-held, hose-end sprayer or other similar device that is constructed so that an interruption of water flow automatically prevents or precludes backflow to the water source.

Subp. 8. **Flow interrupter.** "Flow interrupter" means a device effectively designed and constructed to provide positive (absolute) interruption or secession of material or liquid flow in either direction upon pesticide injection unit shutdown or failure.

Subp. 9. **Injection unit.** "Injection unit" means a chemical metering pump or device that withdraws the pesticide from a supply tank and injects the pesticide into the irrigation system during a chemigation operation and that is effectively designed and built of materials that are compatible with the pesticide and capable of being interlocked with the irrigation system.

Subp. 10. **Interlock.** "Interlock" means the arrangement or interconnection of irrigation pumps and pesticide injection units, other pumps, or supply tanks so that in the event of a component malfunction or failure, shutdown of all pumps will occur.

Subp. 11. **Irrigation.** "Irrigation" means the act of supplying water to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water.

Subp. 12. **Operating chemigation equipment.** "Operating chemigation equipment" includes, but is not limited to:

A. preparing the solution and filling the pesticide supply container;

B. calibrating injection equipment;

C. starting and stopping equipment when injection of chemicals is involved; and

D. supervising the chemigation equipment to assure its safe operation.

Subp. 13. **Reduced pressure zone backflow preventer.** "Reduced pressure zone backflow preventer" means a device designed to prevent backflow consisting of two spring-loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

Subp. 14. **Supervision.** "Supervision" means the direct management of the chemigating system during its operation when chemicals are being applied.

Subp. 15. **Vacuum relief valve.** "Vacuum relief valve" means a device effectively designed and built to automatically relieve or break vacuum in an irrigation pipeline or conduit due to system failure or shutdown.

Subp. 16. **Water supply.** "Water supply" means a source of water that is connected to a single irrigation system such as a single well, group of wells, dug pit, lake, river, stream, or public water supply system.

1505.2010 REGISTRATION.

Subpart 1. **Permit required.** An owner or operator of a chemigation system shall obtain a chemigation permit before applying pesticides through the irrigation equipment. The commissioner has 45 days to review and approve the application or advise the applicant in writing of an unsatisfactory review and detail all necessary revisions.

Subp. 2. **Application.** An applicant for a chemigation permit shall submit an application on forms supplied by the commissioner. The application must include, but is not limited to:

A. the name, address, private applicator certification number, and telephone number of the owner or operator to whom a permit is to be issued;

B. a diagram or description for the irrigation system showing the use of anti-pollution devices;

C. a diagram showing devices and practices for preventing surface runoff and handling accumulations due to runoff;

D. a plan for use of containment relating to pesticide storage sites and supply tanks at the chemigation site, to be reviewed and approved by the commissioner;

E. the number and location, by legal description, of well heads that may be involved in the chemigation process, the location of surface water supply withdrawal points, and the location of the public water supply;

F. a copy of the owner's or operator's Department of Natural Resources water appropriation permit; and

G. a time table for the routine inspection planned for the chemigation system.

Subp. 3. **Permit term; fee.** The application fee for an initial chemigation user's permit established by Minnesota Statutes, section 18B.08, subdivision 4, must be submitted with the initial application. A chemigation user's permit must be renewed each year upon completing an application form and an "annual use report" form provided by the commissioner. Prior to changing any part of the permitted system, a revised application form must be submitted. The commissioner shall have 45 days to review and approve or deny the application.

Subp. 4. **Expedited initial conditional permit.** An owner or operator of a chemigation system wishing to expedite the chemigation initial permit process shall submit an application for a conditional permit on forms provided by the commissioner and include the initial fee required by Minnesota Statutes, section 18B.08, subdivision 4. The owner or operator shall also include with the application a letter describing the need for expediting the permit. The commissioner has five business days in which to review and approve or deny the conditional permit. The conditional permit is valid for 40 days after which the commissioner shall issue or deny a full year chemigation user's permit.

1505.2020 ANTI-POLLUTION DEVICES AND PROCEDURES.

Subpart 1. **Chemigation through irrigation systems.**

A. Pesticides may be used through irrigation systems not connected to public water supply systems for chemigation purposes, if the pesticide is labeled for this method of application.

B. Pesticides may be used through irrigation systems connected to a public water supply system if the pesticide is labeled for this method of application.

C. All chemigation systems must be calibrated to deliver labeled rates and must be fitted with functional anti-pollution devices as detailed in subpart 4 that prevent the backflow of pesticides or pesticide-water mixtures into water supplies during times of irrigation system failure or equipment shutdown.

Subp. 2. **Pesticide supply tank.** A pesticide supply tank used to supply the injection system for a single injection during chemigation may be located no closer than 15 feet from the irrigation water supply, such as a well head, unless positioned in an approved containment unit. Pesticide preparation or filling areas and pesticide storage sites may not be located within 150 feet of the water supply. The chemical injection point must be located down line from all anti-pollution devices located in the supply pipeline.

Subp. 3. **Storage; supply; containment.** Pesticide storage sites in use longer than three months at the chemigation site and any pesticide supply container used in conjunction with the chemigation system must be provided with a means of containment that will prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of the supply container. Materials used for containment must be compatible with the pesticide stored in them.

Subp. 4. **Anti-pollution devices; valves.** Anti-pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to H, and may be installed as portable devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide. If two check valves are used, each check valve must be immediately preceded in the system by a vacuum relief valve and an automatic low pressure drain valve. Check valves, when installed, must be level, except that a deviation of not more than ten degrees from the horizontal is permitted.

B. A reduced pressure zone backflow preventer must be provided for chemigation systems connected to a public water supply. The reduced pressure zone backflow preventer must be located in the irrigation supply line between the irrigation system supply pump and the point of injection of the pesticide.

(1) A reduced pressure zone backflow preventer must be certified by a recognized testing laboratory acceptable to the commissioner. The commissioner shall keep a list of acceptable testing laboratories and manufacturers models.

(2) A check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be quick-closing by spring action and tight-sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least two times the rated manufacturer's working pressure of the valve for one minute, and when subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high retained within the downstream portion of the valve body for 16 hours, as evidenced by independent laboratory testing.

Check valves must be of a manufacturer and model specifically approved by the commissioner for use in chemigation systems. A check valve of a type that has not received prior approval by the commissioner may not be used until its adequacy has been demonstrated to the satisfaction of the commissioner and approval granted.

C. When required to be provided by item A, a vacuum relief valve must be installed on the top of the horizontal irrigation pipeline on the supply side of each check valve. The valve must have an orifice size of at least 3/4-inch diameter for a four-inch pipe, one inch diameter for a five- to eight-inch pipe, and two-inch diameter for a ten- or 12-inch pipe.

D. When required to be provided by item A, an automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of each check valve. The device must have an orifice size of at least 3/4-inch diameter. The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit, and must be at least two inches above grade. The device must be positioned, or the location grade adjusted, so that when draining occurs, liquid will flow away from any water supply.

E. A flow interrupter device interlocked with the injection unit must be provided in the pesticide supply line between the pesticide injection unit and the supply tank. A normally closed, solenoid-operated valve or other similar device is an acceptable method to positively prevent flow of material or liquid during injection system failure or shutdown.

F. A check valve that is resistant to chemicals must be provided on the pesticide injection line between the point of pesticide injection into the irrigation system and the pesticide injection unit, pump, or solution tank, positioned to prevent the flow of liquid from the irrigation line to the pesticide injection device.

G. A mechanical or electrical interlock must be provided between the irrigation system or pump and the pesticide injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the pesticide injection unit.

H. A low pressure switch must be located on the irrigation pipeline that will shut down the irrigation system's power supply when the water pressure decreases to the point where the pesticide distribution is adversely affected.

Subp. 5. **Purging system.** The irrigation system must be operated for at least ten minutes after the pesticide injection is terminated to allow for a complete purging of the pesticide from the system.

Subp. 6. **Posting of sites.** Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment.

1505.2030 RECORDS AND REPORTS.

The chemigation permit holder shall record daily the kinds and amounts of pesticides applied through each chemigation system. These records must be made available to the commissioner and retained for five years from the date of application. Records detailing dates of inspection, the names of inspectors, and the condition of the chemigation unit must also be kept.

1505.2040 RESPONSIBILITY.

An individual operating chemigation equipment under a chemigation user's permit is responsible for the safe operation of the chemigation equipment, and must be supervised by the permit holder.

1505.2050 COMMISSIONER'S RESPONSIBILITY.

The commissioner shall periodically provide chemigation safety information to each person holding a chemigation user's permit.

1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.

Subpart 1. **Official entry.** For the purpose of carrying out parts 1505.2000 to 1505.2070, the commissioner, the commissioner's agents, or other designated state agency or county officials may enter a premises at a reasonable time to:

A. inspect equipment subject to parts 1505.2000 to 1505.2070;

B. inspect or sample water, lands, or crops reported to be exposed to pesticides;

C. inspect or investigate complaints or injury to humans, crops, land, or environment;

D. sample pesticides being applied or to be applied; and

E. observe the use and application of pesticides.

Subp. 2. **Proper installation.** Irrigation systems, devices, valves, pesticide injection units, pumps, and solution tanks used for chemigation purposes must be installed and maintained according to manufacturer's recommendations to ensure proper function during chemigation.

Subp. 3. **Calibration and inspection.** During periods of chemigation, the owner or operator shall periodically calibrate the pesticide injection system. The owner or operator shall also periodically inspect the entire system for proper operation.

Subp. 4. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2000 to 1505.2070, the Department of Agriculture shall allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement, required in parts 1505.2000 to 1505.2070. Prior to making any changes in the system, the applicant shall submit a revised chemigation permit application to the commissioner. The commissioner has 45 days to review the application and issue a new permit or advise the applicant in writing of an unsatisfactory review, detailing all necessary revisions.

1505.2070 PROHIBITED ACTS.

It is a violation of Minnesota Statutes, chapter 18B, for a person to apply pesticides to land, crops, or plants in or with irrigation water in violation of parts 1505.2000 to 1505.2070.

EFFECTIVE DATE. Parts 1505.2000 to 1505.2070 become effective January 1, 1989.

Office of the Attorney General

Proposed Permanent Rules Relating to Rule Reviews

Notice of Intent to Adopt Amendments to a Rule Without a Public Hearing

Notice is hereby given that the Attorney General intends to adopt the above-entitled amendments to a rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* §§ 14.06, 14.09, 14.26, 14.32 and 14.365(8).

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or to any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

SF-00006-05 (4/86)

DEPARTMENT : HEALTH

STATE OF MINNESOTA

Office Memorandum

DATE : May 5, 1988

TO : Carol Milligan
Department of Agriculture

FROM : Raymond W. Thron, Ph.D., P.E., Director
Division of Environmental Health

Raymond W. Thron

PHONE : 623-5320

SUBJECT : Proposed Pesticide Chemigation Safety Rules

The Minnesota Department of Health has the following comments pertaining to the referenced proposed rules printed in the State Register on Monday, April 18, 1988:

1. Part 1505.2020, subp. 2.

   It would be preferable to require a 20-foot isolation distance instead of 15 feet between a pesticide tank and a well. The Minnesota Water Well Construction Code has 20 feet as the minimum isolation between a well and any specified potential source of contamination. The use of 20 feet instead of 15 feet in the proposed rules would eliminate an inconsistency between the proposed rules and the existing Minnesota Water Well Construction Code.

   In addition, this subpart eliminates an isolation distance requirement altogether when a containment unit is provided for the pesticide tank. Such a provision is not recognized by the Minnesota Water Well Construction Code and should be deleted from the proposed rule. The minimum 20-foot isolation should apply in all cases.

2. Part 1505.2020, subp. 3.

   The requirements for containment around a pesticide storage container should be more clearly specified as to acceptable materials and design. Lack of specificity would likely result in some confusion as to the desired intent, and nonuniform compliance and enforcement.

3. Part 1505.2020, subp. 4.B.2.

   This section requires that a check valve be pressure tested to at least two times the rated manufacturer's working pressure. This is inadequate because it does not assure that the valve has been tested or even rated at a pressure which exceeds the pressures to be encountered in the system. For example, the manufacturer could rate a valve at 50 psi, and the rule would only require it to be tested at 100 psi; pressures in irrigation systems commonly exceed 100 psi. The rule should require testing at 300 psi, with a minimum manufacturer's rating of 150 psi to assure that the valve rating is not less than system pressures which will be encountered. National standards such as those of the American Water Works Association

require that backflow prevention valves be rated for at least 150 psi and tested at 300 psi. With the potential for flow of pesticides directly into a well and the resulting contamination of the aquifer, the requirements for testing reliability of the check valve must be no less strict. The Department is agreeable with the use of two check valves to protect the well on this type of system only if the check valves are rated for at least 150 psi and tested to 300 psi. If this provision is not included, the Department feels that only reduced pressure zone backflow preventers should be allowed.

4. Part 1505.2060, subp. 4.

   This subpart states in part that, "... the Department of Agriculture shall allow ... changes if protection to the water supply is at least equal to that provided by the equipment ... required in parts 1505.200 to 1505.2070." This is essentially a variance provision to allow for new technology or new practices, and as such it should be permissive and not mandatory. The Department feels that the language should state that the Department of Agriculture may allow changes. The reasons for this include that the action must be discretionary based on judgement, and that other agencies, including the Department of Health and the Pollution Control Agency, have statutory authorities and responsibilities regarding protection of the water supply.

Thank you for the opportunity to provide comments on these proposed rules. If you have any questions regarding the comments, please contact Gary Englund at 612/623-5330.

RWT:MRB:tvs
cc: Mike Fresvik, Minnesota Department of Agriculture

Department of Agriculture

Agronomy Services Division

Notice of Special Local Need (SLN) Registration for: Diquat Herbicide H/A

Pursuant to *Minnesota Statutes*, Section 18A.23, and 3MCAR, Section 1.0338 B, the Minnesota Department of Agriculture (MDA), on August 5, 1987, issued a Special Local Need (SLN) Registration for Diquat Herbicide H/A, EPA Reg. No. 239-1663, manufactured by Chevron Chemical Company, Richmond, CA.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the use of this product as a preharvest foliage desiccant for birdsfoot trefoil (seed crop only).

The application and other data required under *Minnesota Statutes*, Sections 18A.22, Subdivision 2(a-d), 18A.23, and 40 CFR 162.150-162.158, Subpart B, relative to this registration (identified as SLN No. MN-87-0003) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
St. Paul, Minnesota 55107
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to *Minnesota Statutes*, Chapter 14, for the purpose of revoking, amending, or upholding this registration.

Dated: 5 August 1987

Jim Nichols, Commissioner
Minnesota Department of Agriculture

Department of Agriculture

Agronomy Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Chemigation

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing chemigation. The adoption of these rules is authorized by *Minnesota Statutes*, sec. 18B.08, subd. 5, which permits the agency to develop specific requirements for implementation of a program to regulate application of pesticides by irrigation.

The Department requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Ms. Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements will be received during regular business hours over the telephone at (612) 296-6906, and in person at the above address.

All statements of information and opinions shall be accepted until September 8, 1987. Any written material received by the Department shall become part of the rulemaking record to be submitted to the Attorney General or the administrative law judge in the event that the rule is adopted.

Dated: 29 July 1987

Jim Nichols
Commissioner

Department of Agriculture

Agronomy Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Pesticide Bulk Storage

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing bulk pesticides. The adoption of these rules is authorized by *Minnesota Statutes*, sec. 18B.14, subd. 2, which permits the agency to develop a program to regulate bulk pesticides including installation of secondary containment devices, storage site security, safeguards, notification of storage sight locations, criteria for permit approval, a schedule for compliance and other necessary requirements.

The department requests information and opinions concerning the subject matter of these rules. Interested persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Ms. Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements will be received during regular business hours over the telephone at (612) 296-6906, and in person at the above address.

All statements of information and opinions shall be accepted until September 8, 1987. Any written material received by the Department shall become part of the rulemaking record to be submitted to the Attorney General or the administrative law judge in the event that the rule is adopted.

Dated: 29 July 1987

Jim Nichols
Commissioner

Department of Commerce

Notice to Solicit Outside Opinion Regarding Proposed Rules and Amendments to Existing Rules Regarding Interstate Banking Including the Impact of the Rules on Small Business

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules and amend existing rules relating to Interstate Banking. The department is primarily concerned with establishing the five point rating scale for evaluating financial institutions owned by interstate bank holding companies required by *Minnesota Statutes*, section 48.97, subd. 3. Promulgation of these rules is authorized by *Minnesota Statutes*, sections 48.93, 48.97, 48.99 and 45.023.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by *Minnesota Statutes* § 14.115, subdivision 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to:

James Miller, Deputy Commissioner
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-2715

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING PESTICIDE CHEMIGATION SAFETY

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on April 18, 1988, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on April 13, 1988. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The department did not receive any requests for a public hearing.

Based on the comments and evidence in the record before the department, I find the following:

1505.2000, Subp. 12(A).

Replacing the term "container" with "tank" makes the terminology throughout the rule more consistent. This is a technical change meant to clarify the rule.

1505.2020, Subp. 2.

The minimum distance between a pesticide supply tank and the irrigation water supply was changed from 15 to 20 feet to maintain consistency with the requirements of the Minnesota Well Water Construction Code. The change is minimal and does not add any additional requirements or restrictions.

1505.2020, Subp. 3.

A number of terms were added to this subpart, but they were all added to provide detail to clarify the intent of the rule. Comments to the department indicated that, as written, the rule was vague and confusing because it lacked specific requirements on the volume and length of time pesticides can be stored and the specific distance within which containment devices are required. The changes do not add new requirements but clarify existing requirements.

1505.2020, Subp. 4.

Subpart 4 was reorganized to consolidate sections that specifically mention the requirements for check valves. These sections include Subp. 4.A., lines 15-19; Subp. 4.B.(2), lines 29-36, p-6, and lines 1-9, p-7; Subp. 4.C., lines 10-16; Subp. 4.D., lines 17-25.

The department agreed to add the language that requires an inspection port when using two check valves in a series. The addition allows for compliance by the operation and easy inspection by department staff.

The addition is not substantial because many check valves are sold with an inspection port as standard equipment.

In order to eliminate language that would allow check valves to be rated/tested at pressure(s) less than those pressures commonly found in chemigation systems, the department agrees to incorporate a requirement that valves must be rated at a minimum of 150 psi and be pressure tested at two times their rated pressure. This requirement is consistent with cross-contamination control devices currently in use for applications designed to prevent backsiphonage--check valves used in chemigation are commonly rated at 100-150 psi.

As a result of independent lab testing, the majority of check valves submitted for testing and approval in Nebraska were rated at 100-125 psi; with the most common rating at 125 psi (over a wide range of diameters; 6-10 inch). The majority of check valves' diameters approved in Nebraska are 8 inches.

A minimum pressure of 150 psi is appropriate.

1505.2020, Subp. 6.

The change in this subpart simplifies posting requirements by keeping them consistent with labeling instructions. This is a technical change to the rule and adds no new requirements or restrictions.

1505.2060, Subp. 4.

This change gives the department more flexibility in accepting or denying new technology. It is more restrictive but it allows the department to better protect water supplies.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Pesticide Chemigation Safety as modified is adopted this 28th day of June, 1988, pursuant to authority vested in me by Minnesota Statutes, section 18B.08.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Pesticide Chemigation Safety

CERTIFICATE OF
MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Statutes, sections 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 13th day of April, 1988.

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Carol Milligan
Carol Milligan
Management Analyst

Subscribed and sworn to before me
this 13th day of April, 1988.

Diane M. Windham

In the Matter of the Adoption of the
Rule of the Minnesota Department
of Agriculture Governing Pesticide
Chemigation Safety

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Date: 6/30/88

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the Minnesota Department of Agriculture Governing Pesticide Chemigation Safety

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, July 6, 1988, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on April 18, 1988, has been modified. A copy of the rule as modified is enclosed with this notice.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
Telephone Number: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107
Telephone Number: (612) 296-6906

Carol Milligan

Carol Milligan
Management Analyst

Dated: 7/6/88

In the Matter of the Proposed Adoption of the Rule of the Department of Agriculture Governing Pesticide Chemigation Safety

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE APOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 6th day of July, 1988, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Marie Skerbitz
Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me this 6th day of July, 19 88.
Diane M. Windham

UNIVERSITY OF MINNESOTA

MINNESOTA EXTENSION SERVICE

Area Extension Office
West Central Experiment Station
Morris, Minnesota 56267
(612) 589-1711

July 11, 1988

RECEIVED

JUL 13 88

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST PAUL, MN 55155

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

RE: MDA Proposed Adaption of Pesticide Chemigation Safety Rules

Dear Sirs:

I wish to submit for your consideration the following comments related to the Minnesota Department of Agriculture's proposed adoption of Rules governing pesticide chemigation safety submitted to you on July 6th, 1988:

Section 1505.2020 Anti-Pollution Devices, Subp. 4.C, page 8, line 24:

In the original proposed rules published in the State Register on April 18th, the language did not identify a minimum working pressure of 150 psi. I believe this addition of 150 psi in the current proposed is an over design requirement for most irrigation systems in the field and would also cause some very well constructed valves now currently rated at 100 psi and acceptable in other states like Nebraska to not be included on approved list.

Operating water pressures of irrigations systems will vary from less than 30 to over 125 psi depended on choice of sprinkler package, pipe size and land elevation. Requiring a 150 psi valve on a system of only 30 to 40 psi provides a 8 to 10 time safety factor which is 3 to 4 times the normally used safety factor.

I would rather see the language to state the valve shall have a minimum rated working pressure of 100 psi or 30% above the actual working pressure of the irrigation system which ever is greater and be tested at two times the manufacture's rated working pressure for one minute.

Please send me a copy of your decision on the proposed adoption of these rules.

Thank you for your consideration.

Sincerely yours,

Jerry Wright

Jerry Wright
Area Extension Agricultural Engineer

JW/js

cc: Carol Milligan, MDA

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : OF AGRICULTURE

DATE : July 5, 1988

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

RECEIVED
JUL 06 88
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

PHONE : 296-6906

SUBJECT : Review of Proposed Rule Governing Pesticide Chemigation Safety

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota Statutes, sections 14.22-14.28. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Planning Division
Pat Jensen, Counsel to the Commissioner
Bill Bulger, Agronomy Services Division
John Peckham, Agronomy Services Division

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Notice of Solicitation of Outside Opinion

B. Rule as Proposed.

C. Notice of Intent to Adopt a Rule Without Public Hearing .

D. Statement of Need and Reasonableness.

E. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

F. Certification of Mailing List.

G. State Register Photocopy of Notice of Intent.

H. Rule as Adopted (Original and three copies).

I. Findings of Fact and Conclusions, and Order Adopting.

J. Comment Received.

K. Declaration of Counsel.

L. Notice of Submission to the Attorney General

M. Affidavit of Mailing Notice of Submission