

HOUSE RESEARCH

Bill Summary

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Overview

This is the omnibus policy bill for the Minnesota Department of Agriculture (MDA). It includes three categories of proposed policy language, each in its own article – “Policy and Technical Changes”, “Minnesota Agricultural Water Quality Program,” and “Minnesota Noxious Weed Law.”

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Article 1: Policy and Technical Changes

Overview

This article would modify existing law on various topics under MDA’s jurisdiction.

- 1** **Definitions.** Modifies the livestock investment grant program by eliminating the definition of “qualifying period” that defines the period during each grant cycle when an eligible applicant must make a qualifying livestock investment.
- 2** **Bulk pesticide storage facility.** Defines this term for purposes of chapter 18B “Pesticide Control” as a facility that requires a permit under MDA’s bulk pesticide storage permit program.
- 3** **Disposal site requirement.** Modifies the waste pesticide collection program so that a person who collects waste pesticide under the program in 2014 or 2015 is not required to collect product information during those years. Requires MDA to examine existing waste pesticide

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collection data and trends to inform future collection strategies that better address the nature of waste pesticide streams. Require MDA to report recommendations to legislative agriculture committees by January 15, 2015.

- 4 **Pesticide storage safeguards.** Prohibits storing pesticide in any location with an open drain.
- 5 **Use of public water supplies for filling application equipment.** Consolidates and modifies existing statutes that prohibit the use of public water supplies and public waters (e.g., navigable lakes, rivers, streams, and wetlands) to fill pesticide application equipment unless a backflow prevention device is used. (Note that a separate statute prohibiting use of public waters for filling equipment without an anti-backsiphoning mechanism would be repealed at the end of this article.) Requires that backflow prevention devices comply with and be installed according to the Minnesota Plumbing Code. Requires additional equipment to comply with the Minnesota Plumbing Code. Prohibits cross connections between a water supply used for filling pesticide application equipment. Maintains an existing exemption for a permitted application of aquatic pesticides to public waters.
- 6 **Pesticide handling restrictions.** Expands an existing prohibition on cleaning or filling pesticide application equipment in or adjacent to waters. Prohibits filling, cleaning, unloading, or parking pesticide application equipment where pesticides or pesticide-contaminated materials could enter ditches, surface water, groundwater, wells, drains, or sewers. Per the incorporated Minnesota Rule, the minimum well setback for a safeguarded area used to fill or clean pesticide application equipment would be 50 feet if the area is covered with a permanent watertight roof, or 100 feet if the area lacks a roof.
- 7 **Registration application and gross sales fee.** Technical rewording of existing provision.
- 8 **Requirement.** Modifies the agricultural pesticide dealer license requirement to apply to anyone who sells or offers agricultural pesticide for sale.
- 9 **Resident agent.** Modifies the resident agent requirement for the agricultural pesticide dealer license to apply to anyone located outside of the state who sells or offers agricultural pesticide for sale in Minnesota.
- 10 **Responsibility.** Modifies the resident agent responsibility provision to apply to the agent of any person or company located outside of the state that sells or offers agricultural pesticide for sale in Minnesota.
- 11 **Report of sales and payment to commissioner.** Modifies the agricultural pesticide sales reporting requirement to apply to anyone who sells agricultural pesticide in or into the state.
- 12 **Application.** Modifies the agricultural pesticide dealer license application requirement to apply to the person in charge of each location where agricultural pesticides are sold or offered for sale.
- 13 **Incident response.** Modifies the elements of the pesticide incident response plan required of certain regulated entities. Requires a structural pest control business to develop and maintain a plan; current law provides an option that an applicator employed by the business

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or the business itself has a plan. Requires plans to contain the information required by an MDA form. Eliminates the requirement that plans must be available for MDA inspection.

- 14 Commissioner's duties.** Modifies the Minnesota Organic Advisory Task Force to state that organic farming representatives must be "organic farmers," rather than "farmers using organic agriculture methods." Increases member terms from staggered two-year terms to three-year terms. Extends the task force's expiration date by three years to June 30, 2016.
- 15 Expiration.** Extends the expiration date for the NextGen Energy Board by one year to June 30, 2015.
- 16 Grant awards.** Modifies the Agricultural Growth, Research, and Innovation program to authorize three-year projects/grants and require MDA to reevaluate multiyear projects before authorizing additional funding. Limits projects to one (multiyear) grant.
- 17 Restructured loan agreement.** Modifies the Rural Finance Authority (RFA) Loan Restructuring program so that RFA may assess a penalty when a borrower prepays a loan.
- 18 Bond requirements; claims.** States that licensed grain buyers and licensed public grain warehouse operators must comply with the bond and claim requirements in Minnesota Statutes, chapter 232, "Grain Storage."
- 19 Bond determinations.** Requires the bond for a licensed public grain warehouse operator who also holds a grain buyers' license to be set at the higher level of the two licenses. The entire bond would be available for claims filed against either license.
- 20 E85.** Modifies the motor fuel tax definition of E85 to be a gasoline-ethanol blend containing not more than 85 and not less than 50 percent ethanol by volume.
- 21 Revisor's instruction.** Technical instruction to the Revisor of Statutes to renumber a subdivision and fix all references because section 2 would replace the current § 18B.01, subdivision 4a.
- 22 Repealer.** Repeals a law that prohibits using public waters to fill pesticide application equipment if the person does not use a proper and functioning anti-backsiphoning device. Note that this provision is incorporated into a similar law in a prior section. Repeals many MDA-issued rules in Minnesota Rules, chapter 1510, that pertain to MDA's seed and seed label regulatory activities.

Article 2: Minnesota Agricultural Water Quality Program

Overview

This article would create a new Minnesota Agricultural Water Quality Program administered by MDA.

- 1 Purpose.** Authorizes MDA, in consultation with named state agencies, to implement the new program. Requires an initial pilot program in selected watersheds until MDA

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determines the program is ready for expansion.

- 2 **Definitions.** Defines key terms.
- 3 **Certification instrument.** Requires MDA, in consultation with named state agencies, to develop a certification instrument to determine whether a farmer's water quality and management practices are consistent with state water quality goals and standards.
- 4 **License.** Requires a license for each person who performs the required farm certification services. MDA would set the license fee. A licensed certifying agent could not certify a farmer if the certifying agent previously provided technical assistance to the farmer. To be eligible for licensure, a person must be an agricultural conservation professional employed by the state, a local Soil and Water Conservation District, or the United States Department of Agriculture's Natural Resources Conservation Service. Alternatively, the person could be a Minnesota certified crop advisor. In addition, a person must pass an exam and meet continuing education requirements.
- 5 **Duties of a certifying agent.** Requires an agent to use the certification instrument to assess whether a farmer is eligible for the program. If the agent concludes the farmer is eligible, the agent must notify MDA and request that MDA issue a certificate to the farmer. If a certifying agent violates any provision or an MDA order, the commissioner may issue a warning or suspend or revoke the agent's license. The agent could appeal according to the stated appeals process.
- 6 **Certification procedures.** Requires a farmer who wishes to be certified to conduct an initial assessment, obtain necessary technical assistance, achieve a satisfactory score on the certification instrument, and apply for certification to a certifying agent. If a certified farmer obtains control of additional farmland, the farmer must notify the certifying agent and certify the new farmland within one year. MDA may terminate the farmer's certification for failure to do so. MDA could revoke certification and seek monetary reimbursement from a certified farmer who fails to maintain certification criteria.
- 7 **Certification certainty.** States the benefits and obligations of a participating farmer. A certified farmer would be (1) exempt from new water quality protection rules issued by state agencies for up to 10 years, and (2) considered to be meeting their contribution to any targeted pollution reduction (as in a Total Maximum Daily Load plan issued for a watershed pursuant to the federal Clean Water Act). A certified farmer would be required to (3) continue implementation of practices that maintain certification, and (4) retain all certification records.
- 8 **Audits.** Requires MDA to randomly audit certifying agents and certified farmers.
- 9 **Data.** Classifies all data that identifies farmers or their location as nonpublic or private data on individuals. Requires MDA to make summary data of program outcomes available.
- 10 **Rulemaking.** Authorizes MDA to issue rules to implement the program.
- 11 **Reports.** Requires MDA to report biennially to the legislature.

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- 12** **Granting.** Authorizes MDA to use gifts or other state accounts to issue grants, loans, or other financial assistance.

Article 3: Minnesota Noxious Weed Law

Overview

This article proposes multiple changes to Minnesota’s Noxious Weed Law. In general, the Noxious Weed Law directs MDA to identify and categorize destructive weeds. All private and public landowners must control or eradicate listed noxious weeds. Whether control or eradication is required for a particular weed depends on which category the weed appears in. Local units of government are generally responsible for enforcement.

- 1** **Control.** Modifies the definition of “control” for purposes of the noxious weed law. Control would mean managing and preventing maturation and spread of a noxious weed, rather than destroying all or part of aboveground growth.
- 2** **Eradicate.** Modifies the definition of “eradicate” for purposes of the noxious weed law. Eradicate would mean destroying all above- and belowground parts, rather than destroying aboveground growth and roots.
- 3** **Permanent pasture, hay meadow, woodlot, or other noncrop area.** Replaces “and” with “or” so that this term applies to each land area individually and collectively.
- 4** **Propagating parts.** Expands the definition of “propagating parts” to apply to all plant parts capable of producing a new plant.
- 5** **Noxious weed categories.** Establishes regulatory categories and listings for noxious weeds. These categories establish prohibited and required actions that apply to landowners with weeds assigned by MDA to that category.
- 6** **Weed control agreement.** Modifies the name of an authorized government-landowner weed control agreement by removing the adjective “cooperative.”
- 7** **Training for control or eradication of noxious weeds.** Modifies a reference to University of Minnesota Extension.
- 8** **Noxious weed designation.** Authorizes MDA to determine which weeds are subject to regulation broadly under the noxious weed law, rather than the defined term “control.”
- 9** **Permits.** Eliminates an existing noxious weed transportation permit exemption. Adds a new exemption—no permit required to transport noxious weeds to an MDA-approved disposal site in order to destroy the weed’s propagating parts. A person who transports weeds pursuant to the new exception must ensure that all material is secured in order to prevent escape during transport.

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- 10** **Duties.** Requires MDA to reevaluate specially regulated plants every three years, along with all prohibited and restricted noxious weeds. Requires the Noxious Weed Advisory Committee to advise MDA on administration of noxious weed law and help MDA develop management criteria for each weed category.
- 11** **Membership.** Expands membership of the Noxious Weed Advisory Committee to include representatives of the Minnesota Association of County Land Commissioners and others as needed.
- 12** **Repealer.** Repeals the expiration clause for the Noxious Weed Advisory Committee. Repeals a provision that requires the Noxious Weed Advisory Committee to perform certain activities including evaluating terrestrial plants and recommending whether and how MDA should regulate them pursuant to the noxious weed law.