



## Introduction

The vitality of Minnesota agriculture—defined in this report as crop, livestock, and poultry production—depends on natural resources like soil, air, and water. At the same time, agricultural production inevitably impacts these same resources.

Recognizing this connection, state and federal lawmakers have adopted many laws that directly or indirectly address agriculture's relationship with the natural environment. Collectively, these laws may be referred to as agri-environmental laws or policies.

This report identifies, summarizes, and categorizes agri-environmental laws. The focus is on laws, both state and federal, that impact the operations of Minnesota farmers. Local laws are not included.

Federal laws—whether implemented by the state or local government or the federal government itself—also impact the production decisions of Minnesota farmers. For a short description of the major federal agri-environmental laws and their impact on Minnesota farmers, see Appendix.

## Agri-Environmental Laws

Agri-environmental laws require or encourage farmers to minimize or eliminate pollution by avoiding, incorporating, or continuing certain production practices. Agri-environmental laws may be voluntary (e.g., a grant that offsets a farmer's cost to voluntarily reduce soil erosion) or involuntary (e.g., enforceable regulations concerning runoff from animal feedlots). Many of these laws also apply to a wider swath of the population; lawmakers have targeted others directly to the agricultural community.

Viewed in the context of federal and state legislative history, agri-environmental laws are relatively new. The U.S. Congress expanded the Federal Insecticide, Fungicide, and Rodenticide Act in the early 1970s to begin regulating pesticides not only to protect farmers from adulterated or misbranded products but also to safeguard nonfarmers and the environment.<sup>1</sup> Congress enacted the Clean Water Act in 1972 and defined certain animal feedlots as a potential point source<sup>2</sup> of water pollution. Coinciding with greater public awareness of agriculture's potential impact on soil, water, and air quality, in 1985 Congress began

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<sup>1</sup> Congressional Research Service, *Pesticide Law: A Summary of the Statutes*, November 14, 2012 <http://www.nationalaglawcenter.org/wp-content/uploads/assets/crs/RL31921.pdf> (accessed October 7, 2020).

<sup>2</sup> Point source pollution is water pollution that comes from a single, identifiable source such as a manmade ditch that carries liquid manure or other feedlot runoff to a nearby creek. Nonpoint source pollution is all other pollution, or pollution that is not easily traceable to its source, such as dispersed rainwater runoff from cropland that carries soil, fertilizer, or pesticide to the creek. These two types of water pollution are treated very differently under the Clean Water Act, which regulates only point sources directly.





**Table 1: Minnesota Agri-Environmental Regulations**

| Law   | Primary Agency | Description   | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions   |
|---|----------------|---|--|--|
| <b>Livestock, Poultry, and Manure</b>   |                |   |  |  |
| Animal feedlot waste management<br>(Minn. Stat. ch. 116, Minn. Rule ch. 7020) | PCA            | All animal feedlot <sup>5</sup> owners—regardless of the number or type of animals raised—must comply with minimum feedlot management standards. The extent of regulation generally corresponds to the size of the feedlot operation. | Standards; permits; technical assistance; periodic inspections; administrative, civil, and criminal penalties with statutory requirements for advance notice and forgiveness of administrative penalties | All Minnesota feedlot owners and manure handlers must comply with a basic set of pollution-prevention requirements that include feedlot and manure storage area construction specifications; minimum setbacks from open water, wells, schools, and community and childcare centers; standards for stockpiling, storing, and land-applying manure as fertilizer; and runoff treatment or prevention measures. Most new or expanding feedlots, large operations, and those with existing pollution problems must obtain and comply with the more involved terms of a state and/or federal pollution discharge permit.<br><br>The PCA cannot require the owner of a feedlot with less than 500 animal units to make expensive improvements unless a cost-share subsidy of at least 75 percent of the project cost is available from state, federal, or other sources or the feedlot is an imminent threat to public health. |

<sup>5</sup> Animal feedlot is defined as “... a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.” (Minn. Rules part 7020.0300, subp. 3)

| Law   | Primary Agency | Description  | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions  |
|---|----------------|--|--|---|
| <p>Land application of manure<br/>(<a href="#">Minn. Rule ch. 7020</a>)</p> | <p>PCA</p>     | <p>In general, manure and wastewater from animal feedlots must be disposed of or applied to the land in a manner that will not pollute groundwater (e.g., underground aquifers that supply drinking water) or surface water (e.g., lakes, rivers, streams) resources. Disposal via roadside ditch is prohibited.</p> | <p>Standards; permits; technical assistance; periodic inspections; administrative, civil, and criminal penalties</p> | <p>All feedlot owners, operators, and manure handlers are required to manage and apply manure in a manner that prevents water pollution, including applying manure in a quantity that will not exceed the estimated nitrogen needs of the crop grown on the land and adhering to required setbacks from lakes, drainage ditches, open tile inlets, sinkholes, wells, streams, and grassed waterways. Large feedlots and applicators applying manure from large feedlots may also need to physically test the receiving soil for phosphorous levels prior to application, develop and maintain a formal manure management plan, and keep manure application records.</p> <p>A farmer may hire an MDA-licensed commercial animal waste technician to transport and apply manure in compliance with state law.</p> |
| <p>Livestock water access<br/>(<a href="#">Minn. Rule ch. 7020</a>)</p>     | <p>PCA</p>     | <p>Owners and operators of some large feedlots may not allow their animals to enter any lake, river, stream, creek, or other water body regardless of whether the water body is located entirely on the feedlot property or not.</p> <p>Smaller feedlots must be fenced to keep the animals</p>                      | <p>Standards; administrative, civil, and criminal penalties</p>  | <p>The restrictions do not apply to livestock raised on pastureland. However, pasture operations are subject to general state water pollution prohibitions and must prevent or abate any water quality violations resulting from poor pasture management practices.</p>   |

| Law   | Primary Agency | Description  | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions   |
|---|----------------|--|--|--|
|   |                | out of certain DNR-designated lakes.   |  |  |
| <p>Ambient air quality standards<br/>(<a href="#">Minn. Stat. § 116.0713</a>, <a href="#">Minn. Rule ch. 7009</a> and part <a href="#">7020.2002</a>)</p> | PCA            | <p>No person may emit a pollutant in an amount that adversely affects public health or the ability of others to enjoy life or property. The legal threshold is the ambient air standard as established for each regulated air pollutant.</p> | <p>Technical assistance; feedlot permit condition; administrative and criminal penalties</p> | <p>Feedlot owners and operators are subject to Minnesota’s state hydrogen sulfide standard, as approved by the EPA under authority of the federal Clean Air Act. The level of hydrogen sulfide in the air due to the feedlot may be measured by sensors stationed at the property line shared with an aggrieved neighbor unless the farmer has obtained an air quality easement from that neighbor. Feedlots are temporarily exempt from the hydrogen sulfide standard while manure is removed from a barn or manure storage facility and for seven days after the removal, provided the operator notifies the PCA or, if applicable, the county feedlot officer.</p> <p>Certain farmers are statutorily exempt from odor-related and other nuisance lawsuits under the state’s Right-To-Farm law. (<a href="#">Minn. Stat. § 561.19</a>) These farmers are also exempt from a law that requires a polluter or emitter of obnoxious odor to notify the PCA and take all reasonable steps to abate the pollution or odor. (<a href="#">Minn. Stat. § 116.061</a>)</p> |
| <p>Animal carcass disposal<br/>(<a href="#">Minn. Stat. §§ 35.815</a> and <a href="#">35.82</a>, <a href="#">Minn. Rule ch. 1721</a>)</p>                 | BAH            | <p>A person must promptly dispose of dead animals using legal methods. Available disposal methods depend on the animal and may include burial,</p>   | <p>Standards; permits; administrative, civil, and criminal penalties</p>                     | <p>A farmer disposing of livestock mortalities must adhere to the requirements provided by law. For instance, carcasses must be buried at least five feet above the seasonal high water mark and covered with at least three feet of soil to keep scavengers away. A special BAH permit is</p>   |

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|--|----------------|---|---|--|
|  |                | incineration, composting, or rendering.   |   | required to compost cattle, horses, or exotic animals. A farmer transporting his or her own livestock mortalities to another site for disposal is exempt from the general requirement that vehicles transporting carcasses must be enclosed, leak-proof, and permitted by the BAH. Certain feedlot owners must prepare an animal mortality plan.   |
| Feedlot discharge effluent standards (Minn. Rule ch. 7053) | PCA            | In general, large, federally regulated feedlots may not discharge any runoff. All other feedlots must control or treat manure and process wastewater runoff so as to satisfy state effluent limits. | Standards; permit modification or revocation; administrative, civil, and criminal penalties | A farmer that may discharge liquid runoff into surface waters must treat the runoff so that the monthly average biochemical oxygen demand <sup>6</sup> meets state requirements of no more than 25 mg/L. If the feedlot discharges into a lake or designated water, the runoff also must have an average monthly total phosphorous concentration of less than 1 mg/L.<br><br>The owners of certain small, open lot feedlots who signed agreements with the state are exempt until sufficient financial assistance is available to help the owners address areas of noncompliance. Federal and state feedlot effluent limits do not apply to a discharge resulting from a severe storm. |

<sup>6</sup> Biochemical oxygen demand is a measure of how much dissolved oxygen is consumed by microorganisms in the process of breaking down organic material in feedlot runoff, tree leaves, or other sources of organic matter. When bacteria and fungi consume an abnormally large amount of the available oxygen in a water body, populations of aquatic organisms with a poor tolerance for low oxygen levels may decline or die off completely.



| Law   | Primary Agency                | Description  | Enforcement/Assistance Mechanism  | Farmer Impact and Exceptions  |
|---|-------------------------------|--|---|---|
| <p>Minnesota Environmental Policy Act<br/><a href="#">(Minn. Stat. ch. 116D, Minn. Rule ch. 4410)</a></p> | <p>PCA/LGU</p>                | <p>State law requires an environmental review of proposed public or private projects that require some form of local or state government approval if the project could significantly impact the environment.</p> <p>Some project types must undergo environmental review (e.g., construction of a nuclear waste storage facility), others are exempt (e.g., construction of a single-family home). For those projects in between, the appropriate government agency may initiate environmental review either on its own initiative or in response to a citizen petition.</p> | <p>Civil actions; environmental review as a prerequisite for project approval</p>                               | <p>A livestock farmer who proposes a new feedlot or expansion of an existing feedlot that requires a local or state permit or other form of authorization may be required to provide information necessary to estimate the environmental impact. A livestock farmer who can demonstrate via the assessment document that he or she has taken steps to avoid or minimize negative environmental impacts is more likely to receive project approval, although the decision-making body is not required to turn down the proposed project based solely on environmental assessment findings. If this initial assessment reveals that the feedlot may have a significant environmental impact, the farmer may be required to pay for an additional, involved, and costly environmental impact study before the governing body may act on the feedlot authorization.</p> <p>Whether environmental review is required for a specific feedlot project depends on the size of the operation and whether the feedlot is located in such environmentally sensitive locations as shorelands, floodplains, or vulnerable drinking water supply areas.</p> |
| <p><b>Cropping</b></p>  |                               |  |   |   |
| <p>Riparian farming<br/><a href="#">(Minn. Stat. §§ 103F.48 and 103B.101, subd.</a></p>                   | <p>BWSR/<br/>LGU/<br/>DNR</p> | <p>State statutes and rules generally prohibit crop production on riparian land adjacent to public waters</p>  | <p>Corrective action orders; administrative penalties; criminal penalties; local planning/zoning ordinances</p> | <p>A farmer-landowner generally must maintain a continuous buffer of perennial vegetation between his or her cropland and (1) a public drainage ditch (minimum buffer width of 16.5</p>   |

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|---|-----------------------|---|---|--|
| 12a, <a href="#">Minn. Rule parts 6120.2500-3900</a> )  |                       | and public drainage ditches identified and maintained on the DNR's Buffer Protection Map.   |   | feet), and (2) a public lake, river, or stream (minimum buffer width of 30 feet, average of 50).<br><br>Haying or livestock grazing is allowed on the buffer so long as permanent vegetative cover is maintained. The farmer also must maintain permanent vegetation on any steep slope or bluff area abutting public waters.<br><br>Instead of maintaining a vegetative buffer, the farmer may implement an approved alternative riparian water quality practice that provides comparable protection to the adjacent water body. Regardless of which option the farmer chooses, if he or she elects to apply fertilizer, pesticide, or animal waste, it must be applied in a manner that minimizes any negative impact on the riparian zone and water body. |
| Excessive soil loss ( <a href="#">Minn. Stat. §§ 103B.101</a> , subd. 12a; <a href="#">103F.401-103F.455</a> ; <a href="#">Minn. Rule parts 8400.4000-.4080</a> ) | LGU/<br>BWSR          | Soil erosion/loss is prohibited if it exceeds the maximum level allowed under a local ordinance. State law encourages local units of government to adopt a soil loss ordinance. | Local ordinance; subsidized erosion control agreement; corrective action order; administrative or civil penalty | A farmer who incorporates BWSR-approved best practicable erosion control practices is exempt. Neither BWSR nor a local government can require a farmer with excessive soil erosion to implement soil conservation practices unless the farmer receives a state cost-share subsidy that offsets a significant portion of the project cost.  |
| Public road ditch farming ( <a href="#">Minn. Stat. §§ 160.232, 160.2715</a> )  | MnDOT/<br>LGU/<br>DNR | Plowing, haying, or planting row crops in a public roadside right-of-way is generally prohibited. Where authorized in rural areas,  | Permits; criminal penalty   | Before mowing or haying a public right-of-way, the farmer may need permission from the applicable public land manager or road authority. A farmer does not need a permit to harvest hay from a roadside ditch if the farmer  |

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|---|----------------|--|---|---|
|   |                | mowing is generally limited to specified dates.  |   | has complete (i.e., fee simple) ownership of the land.  |
| Groundwater Protection Act<br>(Minn. Stat. ch. 103H, Minn. Rules, ch. 7060) | MDA            | The Groundwater Protection Act requires a multiagency effort to identify and protect susceptible groundwater areas, monitor groundwater quality, develop and revise drinking water pollutant thresholds, and address the sources of contamination via voluntary or, if necessary, regulatory measures. | Education and technical assistance; voluntary or mandatory pollution control measures; warnings; administrative actions; civil and criminal penalties | <p>Affected farmers are encouraged to adopt best management practices designed to reduce or eliminate the potential for groundwater contamination from agricultural chemicals and practices. If these voluntary practices are proven ineffective in reducing groundwater pollution, the MDA may adopt and enforce groundwater protection requirements that farmers must implement with or without state financial assistance. (See “Minnesota Groundwater Protection Rule”)</p> <p>Farmland located in certain sensitive groundwater areas is automatically eligible for enrollment in the voluntary Reinvest in Minnesota cropland retirement program (see page 24).</p> <p>Landowners who adhere to their local SWCD’s plan for preventing groundwater degradation from surface water recharge are shielded from liability for any groundwater degradation caused by such recharge.</p> |
| Minnesota Groundwater Protection Rule<br>(Minn. Rules ch. 1573)             | MDA            | In areas of the state where soil type, shallow bedrock, or other factors leave the groundwater beneath farmland susceptible to contamination from nitrogen fertilizer, a farmer cannot   | Education and technical assistance; voluntary best management practices; regulations; administrative, civil, and criminal penalties                   | By January 15th each year, MDA must publish a map identifying parcels of land that are subject to the Groundwater Protection Rule. As of July 2020, MDA estimates that approximately 13 percent of Minnesota cropland is located in areas with vulnerable groundwater.  |

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|-----|----------------|--|----------------------------------|---|
|     |                | <p>apply nitrogen in the fall (i.e., after August 31st) or on frozen ground. These same restrictions apply to a person farming within a designated drinking water supply management area where the groundwater has an elevated level of nitrate-nitrogen (i.e., more than 5.4 mg/L). In these same drinking water management areas, MDA can require farmers to implement certain nitrogen fertilizer management practices if MDA’s promotion of area-specific voluntary practices proves ineffective.</p> <p>The rule does not regulate or restrict the use of manure as fertilizer.</p> |                                  | <p>Within these areas, there are several exceptions to the prohibition against fall nitrogen fertilizer applications. For example, farmers may apply certain phosphorous or micronutrient fertilizer formulations that contain nitrogen, and nitrogen may be used to fertilize pasture, winter grains, wild rice, grass seed, certain cover crops, or perennial crops if the farmer uses the application rates and best management practices recommended by the University of Minnesota. MDA will deem farmers participating in the voluntary Minnesota Agricultural Water Quality Certification Program (see page 27) to be in full compliance with the Rule.</p> <p>At the time of publication, no area of the state is subject to mandatory nitrogen management regulations (other than the fall and frozen ground prohibitions). If implemented by MDA, these regulations could include: maintaining nitrogen fertilizer application records; field testing to determine nitrogen requirements; accounting for nitrogen inputs from previous crops or manure; and application rate restrictions. Under the rule, MDA cannot limit which primary crop a farmer can plant or cap nitrogen application rates at a level that is below the minimum rate recommended by the University of Minnesota.</p> |

| Law  | Primary Agency | Description  | Enforcement/Assistance Mechanism                                | Farmer Impact and Exceptions  |
|--|----------------|--|---|---|
| <p>Agricultural chemicals</p> <p>(<a href="#">Minn. Stat. chs. 18B, 18C, and 18D</a>; various Minn. Rules)</p> | <p>MDA</p>     | <p>State laws govern the registration, sale, storage, use, and disposal of pesticides and fertilizers in Minnesota. Prior to use or distribution in the state, nearly all pesticide products and most nonagricultural fertilizers must be registered with the MDA.</p> <p>Many pesticide and fertilizer distributors or applicators must be MDA licensed or certified.</p> | <p>Licensure; administrative, civil, and criminal penalties</p> | <p>A farmer must apply, store, and dispose of a pesticide according to the directions and limitations provided on the product’s label and comply with other relevant state laws and rules. Failure to follow the product label is a violation of state and federal law. A farmer must store, handle, and dispose of a fertilizer in a manner that does not damage agricultural products, endanger humans or animals, contaminate surface or groundwater via backsiphoning or direct flowage, or otherwise have an unreasonable adverse effect on the environment.</p> <p>Although many pesticides may be applied by anyone, an MDA-issued certification is required before a farmer may purchase or apply pesticides that the federal EPA has deemed a heightened threat to the environment (i.e., Restricted Use Pesticides). Though not specifically required by state law, federal law requires farmers who apply Restricted Use Pesticides to keep application records for two years.</p> <p>A farmer does not need a license to apply fertilizer on his or her own land, however he or she may store no more than 6,000 gallons of liquid fertilizer on site without an MDA-issued permit and approved spill containment safeguards. A person who stores bulk fertilizer, regardless of the amount or form, must have an</p> |

| Law   | Primary Agency | Description  | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions   |
|---|----------------|--|--|--|
|   |                |  |  | <p>incidence response plan that describes how a spill or other incident would be handled.</p> <p>The application of manure (i.e., fertilizer) from a large animal feedlot may be subject to manure management requirements contained in Minnesota's feedlot rules.</p> <p>The state also coordinates programs to collect unused farm and other pesticides and empty pesticide containers.</p>  |
| <p>Agricultural chemical spill liability and cleanup cost assistance<br/><a href="#">(Minn. Stat. chs. 18D and 18E)</a></p> | <p>MDA</p>     | <p>A person responsible for a pesticide or fertilizer spill must immediately report the spill to the MDA and take all reasonable actions to mitigate the damage and recover the agricultural chemical.</p> <p>A person who does so may be eligible for state financial assistance to offset their cleanup costs.</p> | <p>Financial assistance; administrative, civil, and criminal penalties</p> | <p>If a farmer immediately reports a spill to MDA and takes all reasonable corrective actions, the farmer is responsible for the first \$1,000 but the state may reimburse up to 80 percent of the farmer's additional cleanup costs, up to a maximum reimbursement of approximately \$280,000. The state may deny or reduce payment if the spill resulted from a violation of state agricultural chemical control laws. If the state cleans up the spill because the farmer is unwilling or unable to do so, the state may hold the farmer liable for all state cleanup costs incurred.</p> <p>A farmer is not liable for cleanup costs or groundwater contamination if the farmer applied or had others apply the fertilizer or pesticide in compliance with the product label and other applicable state laws and MDA orders. A farmer certified to apply restricted-use pesticides is not required to report a spill to the MDA if (1) the amount of pesticide involved, when added to the</p> |

| Law   | Primary Agency | Description   | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions   |
|---|----------------|---|--|--|
|   |                |   |  | quantity of pesticide applied to the area during the preceding 12 months, does not exceed the maximum amount that may be applied to one acre of cropland according to the product label, and (2) the release did not impact nearby public surface water or groundwater resources.  |
| Chemigation<br>( <a href="#">Minn. Stat. §§ 18B.08, 18C.205</a> , <a href="#">Minn. Rule ch. 1505</a> ) | MDA            | It is illegal to apply pesticide or fertilizer through an irrigation system unless the person holds an MDA-issued permit and complies with specific pollution-prevention standards.                     | Permits; administrative, civil, and criminal penalties                         | Before applying pesticide or fertilizer through an irrigation system, a farmer must have an MDA-issued permit to operate the equipment and must pay a separate fee for each water source used (e.g., each well, spring, river, etc.). Each chemigation operator on the farm must have his or her own individual permit. A permitted operator must ensure that effective pollution prevention equipment (e.g., backflow preventer/check valve, low pressure shutdown switch) is used to prevent chemical backflow into the water source. The chemigation operator also must keep the chemical tank a specified distance from the water source and create and maintain application, maintenance, and inspection records. |
| Biosolid/sewage sludge fertilizer<br>( <a href="#">Minn. Rule ch. 7041</a> )                            | PCA            | Only licensed applicators may apply sewage sludge (i.e., a nutrient-rich byproduct of the wastewater treatment process) to agricultural land. The PCA must approve most sludge applications in advance. | Licensure; technical assistance; administrative, civil, and criminal penalties | A farmer must hire a licensed sludge applicator. A licensed applicator may spray, spread, inject, or incorporate sludge on cropland or pasture only if the application will not result in excessive pollutant (e.g., arsenic, lead) loading or soil nitrogen levels that exceed crop or other plant needs. Mandatory soil conditions, slope-specific restrictions, and setbacks from water bodies, tile inlets, and sinkholes are also established in law.   |

| Law  | Primary Agency | Description  | Enforcement/Assistance Mechanism                                      | Farmer Impact and Exceptions   |
|--|----------------|--|---|--|
|  |                |  |   | Sludge may not be applied in June, July, or August unless a crop is currently growing or will be seeded within two weeks after application.  |
| Endangered species protection<br><a href="#">(Minn. Stat. § 84.0895, Minn. Rule ch. 6134)</a>                                  | DNR            | In general, it is illegal to take, import, transport, or sell a wild animal or plant that the DNR has listed as endangered or threatened with extinction throughout all or a significant portion of its range.   | Criminal penalty  | Endangered plants located on agricultural land or in adjoining ditches or roadways might not be protected under the law. In addition, it may be legal to kill endangered plants on property adjacent to agricultural land as the result of a pesticide or other agricultural chemical application so long as reasonable care was taken to avoid any such impact.   |
| <b>Wetlands</b>  |                |  |   |  |
| Wetland Conservation Act (WCA)<br><a href="#">(Minn. Stat. §§ 103G.222-103G.2374, 103B.101, subd. 12, Minn. Rule ch. 8420)</a> | LGU/<br>BWSR   | In general, draining, filling, or excavating a wetland is prohibited unless the activity is exempt under state law or the wetland is replaced by a new or restored wetland of equal public value as approved by the local unit of government. <sup>7</sup> | Administrative actions; administrative, civil, and criminal penalties | If the farmer satisfies certain exemption standards, several farming practices that impact wetlands on agricultural land are explicitly exempt from the act’s replacement requirements. Exempt activities include using dry wetland beds for pasture or cropping during periods of drought so long as drainage equipment or buildings are not installed, filling a wetland to accommodate wheeled irrigation |

<sup>7</sup> The WCA applies to nonpublic wetlands only. A DNR-issued permit is generally required before a person may perform work that impacts a larger public waters wetland. A “public waters wetland” is any wetland not classified and protected as a (general) public waters resource that is a shallow marsh, deep marsh, or open water wetland ten acres in size or greater in an unincorporated area or 2.5 acres or greater in an incorporated area ([Minn. Stat. § 103G.005, subd. 15a](#)). Nonpublic wetlands are all other wetlands in the state. As with nonpublic/WCA wetlands, farmers may crop or pasture a public waters wetland on their property during a drought and may fill a public waters wetland to accommodate a wheeled irrigation boom so long as the public waters wetland is not drained as a result.



| Law  | Primary Agency | Description   | Enforcement/Assistance Mechanism                              | Farmer Impact and Exceptions  |
|--|----------------|---|---|---|
|  |                |   |   | <p>booms so long as normal drainage is not impeded, and noxious weed control.</p> <p>If wetland replacement is required by law, the farmer must replace the public value lost. Minimum replacement acreage ratios are typically lower for farmland and can range from 1:1 to 2.5:1, depending on location, wetland type, and whether a violation has occurred.</p>  |
| <b>General Water</b>   |                |   |   |   |
| <p>Water use<br/>(<a href="#">Minn. Stat. §§ 103G.265-103G.271</a>, <a href="#">103G.287</a>, <a href="#">Minn. Rule ch. 6115</a>)</p> | <p>DNR</p>     | <p>A water appropriation permit is required to withdraw well water (or divert/pump surface water) in excess of 10,000 gallons per day or 1,000,000 gallons per year. In general, the law also requires the use of a flow meter to accurately measure the amount of water appropriated, recordkeeping, and periodic water usage reporting.</p> | <p>Permits; administrative, civil, and criminal penalties</p> | <p>A farmer using/appropriating more than the threshold water amount (for crop irrigation, livestock watering and sanitation purposes, fish farming, etc.) must first obtain a permit from the DNR. The DNR must determine whether the proposed withdrawal is sustainable. If the DNR does not have sufficient groundwater data available at its disposal to evaluate the impact of the farmer’s proposed appropriation, the farmer may need to perform a pumping test, establish monitoring wells, and provide other additional information.</p> <p>Though the DNR generally charges all users based on the quantity of water used, there are several specific exemptions for agricultural users. If a permit-holding farmer does not withdraw any water in a given year or the DNR suspends the farmer’s ability to withdraw water for more than a week during the crop-growing season, the farmer is charged a \$20 minimum fee—other users must pay a minimum fee of \$100.</p> |

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|---|----------------|---|--|--|
|   |                |   |  | <p>Similarly, the maximum permit fee for agricultural irrigation is capped at \$750.</p> <p>The DNR may modify or restrict an agricultural irrigation permit during the growing season only if the authorized withdrawal amount would endanger a neighbor’s drinking water well or another domestic water supply.</p>  |
| <p>Agricultural well construction<br/>(<a href="#">Minn. Stat. ch. 103I</a>, <a href="#">Minn. Rule ch. 4725</a>)</p> | <p>MDH</p>     | <p>Property owners must notify the MDH or a delegated local government of their intent to construct a new well on their property. The owner is also required to hire a licensed contractor to seal any unused well and must notify a potential purchaser of the land of the location and status of all wells on the property. If the well will require a DNR water appropriation permit, the person must apply for and receive DNR preapproval before digging the well.</p> | <p>Technical assistance; administrative orders; criminal penalties</p> | <p>Several well location restrictions pertain to farming operations, including minimum separation distances from animal feedlots and buildings (50 to 100 feet), manure storage areas (100 to 300 feet), pasture feeding or watering areas (50 feet), fertilizer or pesticide tanks and storage or filling areas (up to 150 feet), and chemigation tanks near irrigation wells (20 feet). If the well does not meet certain construction standards, the minimum setback distance is doubled.</p> <p>While most property owners must hire a state-licensed contractor and pay a notification fee to the MDH before constructing a new well that will not be used for personal use, a farmer may construct a drive-point well for agricultural purposes (e.g., irrigation, livestock watering) without hiring a contractor or paying the fee. However, the farmer must notify the MDH of the well’s location and construct the well according to state requirements.</p> |

| Law   | Primary Agency | Description  | Enforcement/Assistance Mechanism                         | Farmer Impact and Exceptions  |
|---|----------------|--|--|---|
| Water quality standards<br>( <a href="#">Minn. Rule ch. 7050</a> )  | PCA            | A person may not discharge any waste into lakes, rivers, streams, wetlands, or other surface waters so as to cause a nuisance. | Standards; administrative, civil, and criminal penalties | A farmer may not allow soil, manure runoff, fertilizers, or pesticides to enter a surface water body and cause excessive suspended solids, excessive growth of aquatic plants, aquatic habitat degradation, or any other offensive or harmful effect. |
| <p><b>Agency acronyms:</b> Minnesota Department of Agriculture (MDA); Minnesota Pollution Control Agency (PCA); Minnesota Department of Natural Resources (DNR); Soil and Water Conservation Districts (SWCD); Local Government Unit (LGU), which depending on the law may include counties, municipalities, local law enforcement officers, joint powers boards, local road authorities, and/or SWCDs and other local water management entities; Minnesota Department of Health (MDH); Minnesota Board of Animal Health (BAH); Board of Water and Soil Resources (BWSR); Minnesota Department of Transportation (MnDOT); and U.S. Environmental Protection Agency (EPA).</p> |                |  |  |   |
| House Research Department   |                |  |  |   |

## Subsidies

Farmers make production decisions based on several factors. As a for-profit enterprise, a significant factor is the likely impact on the farm's financial viability. Agri-environmental subsidies fully or partially offset a farmer's cost of providing environmental benefits. An example of an environmental benefit is the protection of water resources via erosion control.

Some subsidized agricultural practices may increase a farmer's bottom line by improving soil productivity and/or lowering input costs. Others pay farmers to make pollution control upgrades that are necessary to comply with state or federal agri-environmental regulations (e.g., a state cost-share grant awarded to a farmer in order to install pollution controls and comply fully with state feedlot rules).

Agri-environmental subsidies generally take the form of cost-sharing grants, land rental payments, the purchase of conservation easements,<sup>8</sup> or technical assistance with the development and implementation of conservation practices. State subsidies are sometimes paired with federal, local, or private funds to leverage state dollars (e.g., in certain high-priority watersheds, federal Conservation Reserve Program payments may be combined with state Reinvest in Minnesota program payment(s) to form the Conservation Reserve Enhancement Program).

Farmer willingness to participate in agri-environmental subsidy programs tends to outpace the level of available funding.

In Table 2, Minnesota's agri-environmental subsidies are subcategorized as laws that (1) finance conservation or pollution control practices on working agricultural land, or (2) pay farmers not to farm certain environmentally sensitive agricultural lands.

State and federal funding is fluid; not all of the programs listed are currently active.

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<sup>8</sup> A conservation easement is a set of restrictions a landowner voluntarily places on the use of his or her property in order to preserve certain environmental values. A private landowner conveys a conservation easement to a government agency or nonprofit conservation organization qualified to hold and enforce easements.

**Table 2: Minnesota Agri-Environmental Subsidies**

| Law   | Primary Agency | Description   | Enforcement/Assistance Mechanism                                       | Farmer Impact and Exceptions  |
|---|----------------|---|--|---|
| <b>Working Lands</b>  |                |   |  |   |
| State Cost-Share Program<br><br><a href="#">(Minn. Stat. § 103C.501, Minn. Rule ch. 8400)</a>             | SWCD/<br>BWSR  | Awards grant funds to private landowners or renters to offset the cost of installing approved soil conservation or water protection practices.  | Grant funds; technical assistance; contracts; administrative penalties | An eligible farmer may receive financial and technical assistance to partially offset the cost of installing a BWSR-approved conservation practice that addresses high-priority erosion and water quality issues (i.e., sedimentation and nutrient/chemical loading). Eligible practices include cover crops, grassed waterways, filter strips, feedlot runoff controls, buffers, and sealing of unused wells. The farmer is responsible for the ongoing operation and maintenance of subsidized conservation practices. Failure to comply may result in required repayment of state assistance plus a penalty. The farmer must maintain structural and vegetative practices for at least ten years. Practices that increase agricultural productivity without providing environmental benefits are not eligible. |
| Agricultural Best Management Practices (AgBMP) Loan Program<br><br><a href="#">(Minn. Stat. § 17.117)</a> | LGU/MDA        | Provides low-interest loans to farmers, agricultural supply businesses, rural landowners, and rural water cooperatives for the purchase of capital equipment or the installation of best management practices that reduce or eliminate nonpoint source water pollution or other | Low-interest loans; contracts  | Offers farmers and other rural landowners access to inexpensive financing to address water pollution problems including but not limited to excessive erosion and nutrient or pesticide runoff. Crop farmers are eligible, as are feedlot owners with fewer than 1,000 animal units and an existing manure management problem. (Livestock farmers with more than 1,000 animal units may be eligible if located within the Mississippi River watershed.)  |

| Law  | Primary Agency | Description   | Enforcement/Assistance Mechanism              | Farmer Impact and Exceptions   |
|--|----------------|---|---|--|
|  |                | adverse environmental impacts.  |   | <p>Local units of government administer the program and determine which proposed projects are eligible.</p> <p>Unlike the cost-share program, a farmer may use the proceeds of an AgBMP loan to purchase capital equipment (e.g., a no-till drill that reduces cropland erosion). A farmer could also use an AgBMP loan to fund his or her required share of a project partially funded by the state cost-share program.</p>   |
| <p>Sustainable agriculture demonstration grants<br/>(Minn. Stat. § 17.116)</p> | MDA            | <p>The state awards grants for on-farm research and demonstration of practices that both increase the farmer’s bottom line and incorporate environmental stewardship and the conservation of natural resources.</p>                         | Financial assistance                          | <p>The law prioritizes projects that are farmer initiated; other projects must demonstrate significant farmer collaboration. Eligible activities include enterprise diversification and organic production, cover crops, conservation tillage, and nutrient and pesticide management. Ineligible expenditures include the purchase of farm equipment and building construction. MDA publishes the results of funded demonstration projects so that others may learn from them.</p> |
| <p>Clean Water Partnership Program<br/>(Minn. Stat. §§ 103F.701-103F.755)</p>  | PCA/LGU        | <p>The state awards financial and technical assistance to local governments so they may identify and address nonpoint sources of water pollution including runoff from urban areas, cropland, pastureland, and smaller animal feedlots.</p> | Education; financial and technical assistance | <p>Farmers located in the watershed of an impaired lake, river, or stream may receive pollution control assistance from their county, watershed district, SWCD, or other LGU. This assistance may include information on farm pollution sources and mitigation practices, technical assistance with drafting nutrient management plans, financial assistance to implement cropland/pastureland nutrient and</p>  |

| Law  | Primary Agency | Description  | Enforcement/Assistance Mechanism                                   | Farmer Impact and Exceptions  |
|--|----------------|--|--|---|
|  |                |  |  | erosion control best management practices, or assistance with feedlot pollution control.  |
| Clean Water Legacy Act<br>( <a href="#">Minn. Stat. ch. 114D</a> ) | PCA/LGU        | Provides a framework for interagency and private party cooperation to protect and restore surface and groundwater, including to implement federal Clean Water Act-mandated surface water activities such as the identification of polluted lakes, rivers, and streams and the restoration of these impaired waters to their intended use(s). | Education; financial and technical assistance; financial penalties | <p>Farmers located in the watershed of an impaired lake, river, or stream may see an increase in the amount of educational, technical, and financial assistance available to them to address pollution problems on their cropland, pastureland, and/or feedlot. Depending on the impairment identified (e.g., turbidity, fecal coliform), crop or poultry/livestock farmers in the watershed may be assigned a maximum amount of pollution that they may collectively contribute to the watershed each day. State assistance is intended to help farmers voluntarily incorporate pollution control practices and take other steps to meet this requirement.</p> <p>State agencies are required to use existing regulatory authorities and promote the development and use of new, nonregulatory measures to address pollution when applicable regulations are not available. State agencies are also directed to monitor and enforce pollution control cost-sharing contracts. If a farmer or other cost-share recipient fails to comply with the terms of the contract, the responsible agency must recoup the amount of assistance provided and impose a penalty.</p> |

| Law  | Primary Agency | Description   | Enforcement/Assistance Mechanism                            | Farmer Impact and Exceptions  |
|--|----------------|---|---|---|
| Nonpoint Engineering Assistance Program<br>(Minn. Stat. § 103C.401)    | SWCD/<br>BWSR  | Funds regional engineers and technicians who assist private landowners with a variety of nonpoint source pollution management practices.  | Technical assistance  | Farmers may receive technical and engineering assistance through their local SWCD to design and initiate conservation practices that decrease or eliminate agricultural erosion, runoff, and other nonpoint sources of water pollution.   |
| Farm Opportunity Loan Program<br>(Minn. Stat. § 41B.057)               | RFA            | Provides loans to farmers to purchase and install equipment that enhances farm profitability and benefits the environment.  | Loans   | Qualifying farmers may receive a loan with a below-market interest rate through this program. A farmer cannot obtain a loan for the purpose of refinancing existing debt.   |
| <b>Land Retirement</b>   |                |   |   |   |
| Reinvest in Minnesota<br>(Minn. Stat §§ 103F.515, Minn. Rule ch. 8400) | SWCD/<br>BWSR  | Eligible farmers may choose to retire environmentally sensitive farmland in exchange for state payment(s). Eligible land includes riparian agricultural lands, marginal cropland, pastured hillsides, and land located in areas susceptible to groundwater contamination. | Conservation easements; contracts; administrative penalties | Farmers who otherwise could earn income by continuing to crop or graze livestock on environmentally sensitive lands are compensated for taking that portion of their private land out of production. The land remains in private ownership.<br><br>A participating farmer relinquishes the right to farm the land and agrees to manage it according to a conservation plan. Additional program funds are available to assist the landowner in implementing the plan, including such activities as restoring drained wetlands and planting native plants and/or trees. |
| Permanent Wetland Preserve Program                                     | SWCD/<br>BWSR  | A private landowner may sell to the state a perpetual easement and commit to  | Conservation easements; contracts; administrative penalties | In exchange for payment based on the township's average farmland value, the farmer must agree not to plant crops, graze livestock,  |



| Law   | Primary Agency | Description  | Enforcement/Assistance Mechanism  | Farmer Impact and Exceptions   |
|---|----------------|--|---|--|
| (Minn. Stat. § 103F.516)  |                | preserving (and if necessary, restoring) a wetland on his or her property.   |   | or spray chemicals in or around the wetland. The farmer must control noxious weeds and allow officials to enter the property for inspection and correction of any contractual violations. A farmer may enroll up to four adjacent upland acres for each acre of wetland preserved.   |
| Wetland Preservation Program<br>(Minn. Stat. §§ 103F.612 to 103F.616)                             | LGU/<br>BWSR   | In participating counties, the owner of a wetland located in a high-priority area may place a restrictive covenant on the wetland and surrounding upland areas in exchange for a property tax exemption. | Restrictive covenants; property tax exemptions; protection from eminent domain actions and assessment for public projects | Eligibility is limited to wetlands located in areas designated by BWSR. In exchange for the property tax exemption, the farmer must agree to preserve the wetland and maintain permanent vegetation on at least a one-rod upland buffer around the wetland. The covenant is considered permanent and runs with the land, however the landowner may terminate the covenant but only after providing notice to the county and waiting no less than eight years from the date of notice.  |
| Wetland Establishment and Restoration Cost-share Program<br>(Minn. Stat. §§ 103F.901 to 103F.905) | LGU/<br>BWSR   | Provides private landowners in high-priority wetland areas with grant funds to restore or establish a wetland on their property in exchange for a permanent conservation easement.                       | Financial assistance; conservation easement; contracts  | An eligible farmer located within a state and local government-designated high-priority wetland area can apply to his or her local unit of government for state funds of up to \$20,000 or 50 percent of the farmer’s cost to establish or restore a wetland on his or her property. The local unit of government must pay all other wetland establishment and restoration costs. In addition to cost-share funding, the state purchases a conservation easement from the farmer, which prevents the farmer and any future landowner from lawfully draining, |

| Law  | Primary Agency | Description | Enforcement/Assistance Mechanism | Farmer Impact and Exceptions                                  |
|--|----------------|-------------|----------------------------------|---|
|  |                |             |                                  | farming, or otherwise developing the new or restored wetland. |
| <p><b>Agency acronyms:</b> Minnesota Department of Agriculture (MDA); Minnesota Pollution Control Agency (PCA); Minnesota Department of Natural Resources (DNR); Soil and Water Conservation Districts (SWCD); Rural Finance Authority (RFA); Local Government Unit (LGU), which depending on the law may include counties, municipalities, joint powers boards, and/or SWCDs and other local water management entities; Minnesota Department of Health (MDH); Minnesota Board of Animal Health (BAH); and the Board of Water and Soil Resources (BWSR).</p> |                |             |                                  |   |
| <p>House Research Department</p>   |                |             |                                  |   |

## Other

Two state agri-environmental laws are neither regulations nor subsidies.

**Table 3: Other Minnesota Agri-Environmental Laws**

| Law  | Primary Agency | Description   | Enforcement/Assistance Mechanism  | Farmer Impact and Exceptions  |
|--|----------------|---|---|---|
| Minnesota Environmental Rights Act (MERA)<br><a href="#">(Minn. Stat. ch. 116B)</a>                              | N/A            | Provides citizens, organizations, and governmental bodies the right to sue to protect the state’s natural resources from pollution, impairment, or destruction.                                 | Civil action  | The law shields a farmer from MERA lawsuits if the operation fits the statutory definition of family farm, family farm corporation, or bona fide farm corporation.  |
| Minnesota Agricultural Water Quality Certification Program<br><a href="#">(Minn. Stat. §§ 17.9891 to 17.993)</a> | MDA            | A state-federal partnership that recognizes farmers who satisfy all applicable laws and mitigate any water quality risk identified through a whole-farm assessment. Participation is voluntary. | Whole-farm risk assessment; technical and financial assistance; audits; certification | <p>Certifying agents provide participating farmers with technical and financial assistance to adopt additional conservation practices, mitigate water quality risks, and earn certification.</p> <p>By law, government agencies must presume that a certified farmer is satisfying his or her share of any targeted pollutant reduction requirements that apply to area farmers.</p> <p>MDA enters into a ten-year certification contract with a participating farmer, which provides that the farmer will be deemed compliant with any new state water protection law or rule that takes effect during the certification period.</p> |
| House Research Department  |                |   |   |   |

## Appendix: Federal Laws

**Table 1A: Major Federal Agri-Environmental Regulations**

| Law  | Description  | Enforcement/Assistance Mechanism  | Farmer Impact and Exceptions  |
|--|--|---|---|
| Clean Water Act (CWA)<br><a href="#">(33 U.S.C. § 1251 et. seq.)</a> | <p>The CWA seeks to restore and/or preserve the chemical, physical, and biological integrity of the nation's surface waters by addressing the sources of water pollution. The CWA directly regulates point sources of pollution (i.e., identifiable water pollution generators such as wastewater treatment facilities, large feedlots, and factories). States are responsible for identifying and addressing all other sources of water pollution, including runoff from urban areas, cropland, pastureland, and smaller animal feedlots.</p> <p>The CWA serves as the foundation for several Minnesota agri-environmental laws, including the animal feedlot and biosolid fertilizer regulatory programs, as well as the AgBMP loan program.</p> | Permitting of point source pollution activities; water quality standards; administrative, civil, and criminal penalties | <p>The identification of impaired waters and the establishment of allowable pollution levels are carried out at the state and local government levels, as guided by Minnesota's Clean Water Legacy Act (see page 23).</p> <p>Under a separate CWA provision, farmers may need a permit issued by the U.S. Army Corps of Engineers before dredging or filling a wetland on or adjacent to their property. However, standard farming practices including plowing, seeding, harvesting, and minor wetland drainage generally are exempt.</p> |
| Clean Air Act (CAA)<br><a href="#">(42 U.S.C. § 7401 et. seq.)</a>   | <p>The CAA regulates stationary and mobile sources of certain air pollutants via permits and the establishment of ambient air quality standards and air pollution discharge thresholds. The focus is on major pollution sources that emit more than the threshold amount of a regulated pollutant (e.g., factories and power plants).</p>  | National ambient air quality standards; state implementation plans; civil and criminal penalties                        | <p>While farms are not explicitly exempt from the CAA, most farming activities do not generate an amount of air pollution sufficient to trigger CAA requirements. However, CAA regulations may apply to large feedlots or other farming operations that emit more than the allowable amount of regulated air pollutants including dust/particulate matter, nitrogen oxide, and such ozone</p>   |

| Law   | Description  | Enforcement/Assistance Mechanism             | Farmer Impact and Exceptions   |
|---|--|--|--|
|   | <p>States are also responsible for controlling air pollution under the CAA. The CAA requires Minnesota to develop and enforce Environmental Protection Agency (EPA)-approved ambient air quality standards (see page 7), which are enforced as both state and federal law.</p>   |  | <p>precursors as volatile organic compounds and ammonia.</p> <p>Livestock or poultry odor is generally regarded as a nuisance issue and is not regulated under the CAA.</p> <p>An EPA-approved state law exempts farmers from a state requirement to obtain a permit to burn certain solid waste generated from the farmer’s home or farming operation so long as regularly scheduled trash collection is not available.</p> <p>Emissions from Minnesota animal feedlots may be regulated under state air pollution and animal feedlot permit requirements (see page 7).</p> |
| <p>Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)<br/><i>(7 U.S.C. § 136 et. seq.)</i></p> | <p>The FIFRA regulates the registration, use, storage, and disposal of household, agricultural, and other pesticides for the protection of consumers, human health, and the environment. Associated regulations establish mandatory worker protection standards intended to reduce the risk of illness or injury resulting from farm workers’ occupational exposure to pesticides.</p> <p>States carry out many of FIFRA’s licensing and enforcement requirements and FIFRA establishes the legal framework for Minnesota’s state pesticide registration and handling laws (see pages 13 to 15).</p> | <p>Permits; civil and criminal penalties</p> | <p>Farmers must follow all application directions and other instructions or safeguards printed on a pesticide product’s label. Failure to do so constitutes a violation of federal and state law.</p> <p>A farmer must obtain an MDA-issued private applicator certification before using any pesticide product the EPA has identified as requiring additional safeguards to prevent significant environmental damage or harm to human health (see page 13).</p>   |

| Law  | Description   | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions   |
|--|---|--|--|
|  |   |  | <p>A farmer must warn his or her farmworkers of an upcoming application, prevent workers from entering the application area for a specified period of time, provide the workers with pesticide safety training and facts about each pesticide application at a central location, and locate decontamination supplies within a quarter-mile of all workers.</p>   |
| <p>Safe Drinking Water Act (SDWA)<br/>(<a href="#">42 U.S.C. ch. 6A</a>, subc. XII; <a href="#">40 C.F.R</a>)</p>  | <p>The SDWA establishes health-based standards for public drinking water and authorizes public water suppliers to protect public health by identifying and mitigating natural and man-made sources of pollution to the underground aquifers and surface waters that supply public drinking water.</p> | <p>Standards; administrative orders; administrative, civil, and criminal penalties</p> | <p>While public water suppliers are the regulated entity under the SDWA, farmers may be indirectly affected by the wellhead protection plans authorized by the SDWA and required for drinking water wells under Minnesota’s Groundwater Protection Act (see page 11). The MDA has developed voluntary best management practices to help farmers control fertilizer and pesticide leaching or runoff from their property.</p> |
| <p>Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)<br/>(<a href="#">42 U.S.C §§ 9601-9675</a>) and Emergency Planning and</p> | <p>Both CERCLA and EPCRA (a.k.a. Superfund) require a person to report to the federal, state, or local government a large release of certain substances into the environment. CERCLA imposes strict liability for any associated cleanup costs and environmental damage.</p>                          | <p>Civil penalties; reporting requirements</p>   | <p>Both CERCLA and EPCRA mandate reporting when air pollutants such as hydrogen sulfide and ammonia are emitted in amounts that meet or exceed threshold reporting levels, however air emissions from livestock waste likely are exempt. Farmers must report significant anhydrous ammonia emissions and the release of manure into water (e.g., a lagoon breach).</p>   |

| Law   | Description  | Enforcement/Assistance Mechanism      | Farmer Impact and Exceptions   |
|---|--|---------------------------------------|--|
| Community Right-to-Know Act (EPCRA)<br><a href="#">(42 U.S.C. §§ 11001-11050)</a> |  |                                       |  |
| Endangered Species Act (ESA)<br><a href="#">(16 U.S.C. § 1531 et seq.)</a>        | Among other things, the ESA prohibits taking <sup>9</sup> (without a permit) any animal species the federal government has listed as endangered or threatened. | Permits; civil and criminal penalties | Farmers may not kill or otherwise take a protected species that damages crops or harasses or kills their livestock unless the farmer acts in the defense of human life.<br><br>A state reimbursement program is available to farmers who sustain crop losses due to elk or livestock losses due to wolves. ( <a href="#">Minn. Stat. §§ 3.737 and 3.7371</a> ) |
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<sup>9</sup> Taking is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting an endangered species.

**Table 2A: Federal Agri-Environmental Subsidies**

| Law   | Description   | Enforcement/Assistance Mechanism                        | Farmer Impact and Exceptions  |
|---|---|---|---|
| <b>Working Lands</b>  |   |   |   |
| Environmental Quality Incentives Program<br>(Pub. L. No. 115-334) | A voluntary program that offsets a farmer’s cost of implementing conservation practices and/or addressing existing pollution problems.  | Financial and technical assistance                      | A participating farmer receives funding to partially offset the cost of addressing a pollution issue or providing wildlife habitat via one or more conservation practices (e.g., grassed waterways, filter strips, and manure storage systems). For annual conservation practices such as nutrient management or conservation tillage, the farmer may receive payments for up to three years. The contract may require the farmer to maintain the practice for up to ten years. |
| Conservation Stewardship Program<br>(Pub. L. No. 115-334)         | A voluntary program that identifies and rewards farmers who employ high conservation standards.   | Financial and technical assistance; plans and contracts | Participating farmers are encouraged to build on existing conservation practices and gains by incorporating additional conservation enhancements in exchange for an annual payment based on conservation performance.   |
| Conservation Technical Assistance<br>(Pub. L. No. 115-334)        | A voluntary program providing conservation planning, design, and implementation assistance to private landowners and governments on topics such as soil erosion, water conservation, gully control, soil productivity, and animal waste management. | Technical assistance                                    | Farmers can get field-specific advice or engineering and other services as they plan and implement conservation practices on their farmland, either voluntarily or as required per a USDA conservation requirement or an applicable state, federal, or local environmental law.   |



| Law   | Description  | Enforcement/Assistance Mechanism   | Farmer Impact and Exceptions  |
|---|--|--|---|
| <b>Land Retirement</b>  |  |  |   |
| Conservation Reserve Program (CRP) – General and Continuous Enrollment<br><a href="#">(Pub. L. No. 115-334)</a> | <p>A voluntary program in which participating farmers are paid annually in exchange for temporarily (ten to 15 years) idling environmentally sensitive crop or pasture lands and establishing permanent land cover. In the standard program, the USDA uses competitive criteria and farmer bids to select program acres from all eligible applicants.</p> <p>In contrast, no competitive criteria or limited sign-up periods are used in the continuous version; acres are enrolled—subject to available funding—as long as the land is suitable for certain high-priority practices such as riparian buffers, wetland restoration, and grassed waterways.</p> | Financial and technical assistance; a contract that includes penalties for early land withdrawal | Farmers are compensated for setting aside vulnerable acres that they could otherwise use to grow crops or raise livestock. Participating farmers also receive financial assistance to offset the cost of planting approved grasses and/or trees to prevent erosion, provide wildlife habitat, and perform regular maintenance (e.g., weed control). |
| Conservation Reserve Enhancement Program (CREP)<br><a href="#">(Pub. L. No. 115-334)</a>                        | A partnership between the state of Minnesota and the USDA to enhance and target the federal CRP to high priority, environmentally sensitive agricultural land in the Minnesota River watershed (CREP 1); the Red River, Lower Mississippi River, and Missouri/Des Moines River watersheds (CREP II); and southern and western Minnesota (CREP III). CREP combines perpetual RIM (state) easements with temporary, 15-year CRP (federal) contracts.   | Financial and technical assistance; a contract that includes penalties for early land withdrawal | In addition to annual CRP payments, participating farmers receive a front-loaded RIM payment from the state and are eligible for up to 100 percent cost-sharing for conservation practices on enrolled land (i.e., up to 50 percent each from the state and federal governments).   |

| Law   | Description   | Enforcement/Assistance Mechanism                                      | Farmer Impact and Exceptions   |
|---|---|---|--|
| Agricultural Conservation Easement Program – Wetland Reserve Component<br><a href="#">(Pub. L. No. 115-334)</a> | A voluntary program offering farmers the opportunity to retire eligible agricultural land to protect, restore, and enhance wetlands on their property in exchange for technical and financial assistance. | Technical and financial assistance; conservation easements; contracts | Eligible farmers may sell the federal government a 30-year or permanent conservation easement on the wetland property, forgoing the ability to farm the wetland. Participating farmers also receive wetland restoration cost-share assistance. |
| Water Bank Program<br><a href="#">(16 U.S.C. ch. 29)</a>  | Offers farmers ten years of rental payments in exchange for maintaining wetlands and wildlife habitat on farmland they own or rent.   | Financial assistance; rental contracts                                | Participating farmers receive rental payments annually. Although enrolled wetlands and adjacent uplands cannot be drained or cropped, USDA may allow haying and/or grazing in certain circumstances.   |

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**Table 3A: Federal Agri-Environmental Compliance Mechanisms<sup>10</sup>**

| Law  | Description   | Enforcement/Assistance Mechanism                                     | Farmer Impact and Exceptions   |
|--|---|--|--|
| Conservation Compliance – Sodbuster and Swampbuster<br><a href="#">(Pub. L. No. 115-334)</a> | A farmer who crops highly erodible land (without a USDA-approved soil conservation system) or damages a wetland may lose eligibility for many federal financial support programs including commodity, conservation, and disaster relief payments as well as | Subsidy eligibility is tied to natural resource protection standards | USDA encourages farmers to check with their local USDA-Farm Service Agency office before plowing additional acreage or impacting a wetland on their property in a manner that would make agricultural commodity production possible. |

<sup>10</sup> Compliance mechanisms tie farmer eligibility for many federal farm support programs to certain environmental requirements.

| Law   | Description   | Enforcement/Assistance Mechanism                       | Farmer Impact and Exceptions  |
|---|---|--|---|
|   | subsidized loans and crop insurance premium subsidies.  |  |   |
| Sodsaver<br>( <a href="#">Pub. L. No. 115-334</a> ) | A farmer who plows native sod/prairie for crop production may receive lower crop insurance coverage levels and premium subsidies and may also have limited eligibility for federal noninsured crop disaster assistance. | Subsidy eligibility is tied to treatment of native sod | USDA encourages farmers to check with their local USDA-Farm Service Agency office before plowing native sod in a manner that would make agricultural commodity production possible. |
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