

CHAPTER 1505
DEPARTMENT OF AGRICULTURE
PLANT AND ANIMAL DISEASES; PEST CONTROL;
PESTICIDE USE AND CONTROL

- SHADE TREE PROGRAM**
- 1505.0010 AUTHORITY.
1505.0020 DEFINITIONS.
- TREE INSPECTORS**
- 1505.0030 TREE INSPECTOR EMPLOYMENT.
1505.0040 PROVISIONAL APPOINTMENTS.
1505.0050 TREE INSPECTOR QUALIFICATIONS.
1505.0060 FAILURE TO APPOINT TREE INSPECTOR.
1505.0070 CERTIFICATION OF TREE INSPECTOR.
1505.0080 CONTINUING EDUCATION PROGRAM.
1505.0090 CERTIFICATION ALTERNATIVES.
- SHADE TREE DISEASE CONTROL PROGRAM**
- 1505.0100 ELEMENTS.
1505.0110 CONTROL AREA.
1505.0120 PROGRAM PLAN.
1505.0130 METHODS OF IDENTIFYING DISEASED SHADE TREES.
1505.0140 TREE INVENTORY.
1505.0150 SANITATION FOR DUTCH ELM DISEASE CONTROL.
1505.0160 INSPECTION.
1505.0170 FREQUENCY OF INSPECTION.
1505.0180 SUMMER GENERATION OF ELM BARK BEETLES.
1505.0190 HIGH RISK ELM TREES.
1505.0200 LOW RISK ELM TREES.
1505.0210 TREES NOT REMOVED WITHIN TIME PERIODS PROVIDED.
1505.0220 ALTERNATIVE REMOVAL SCHEDULE.
1505.0230 METHODS OF DISPOSAL.
1505.0240 STUMPS.
1505.0250 STOCKPILING AND STORAGE OF ELM LOGS.
1505.0260 ROOT GRAFT CONTROL.
1505.0270 OAK WILT.
1505.0280 ROOT GRAFT CONTROL.
1505.0290 CONTROL OF OVERLAND SPREAD OF OAK WILT.
1505.0300 GIRDLING.
1505.0310 RED OAK GROUP.
1505.0320 REMOVAL AND DISPOSAL OF DISEASED OAK TREES.
1505.0330 REMOVAL BY MUNICIPALITY.
1505.0340 STUMPS.
1505.0350 RECORDS.
1505.0360 YEARLY REPORT.
1505.0370 PROGRAM REVIEW.
1505.0380 CHANGES IN MUNICIPAL PROGRAM.
SANITATION AND REFORESTATION PROGRAMS
1505.0390 GRANTS-IN-AID TO MUNICIPALITIES FOR SANITATION AND REFORESTATION PROGRAMS.
1505.0400 SANITATION GRANTS TO MUNICIPALITY.
1505.0410 REFORESTATION GRANTS TO MUNICIPALITY.
1505.0420 REFORESTATION GRANTS TO COUNTY.
1505.0430 REFORESTATION GRANTS TO TOWNS AND MUNICIPALITIES.
1505.0440 REFORESTATION ADVISORY COMMITTEE.
1505.0450 PROGRAM ELIGIBILITY.
1505.0460 PROGRAM APPLICATION.
1505.0470 APPROVAL.
1505.0480 MINNESOTA AGRICULTURAL EXTENSION SERVICE.
1505.0490 REVOCATION OF APPROVAL.
1505.0500 TERMINATION OF GRANTS.
1505.0510 PROGRAM APPLICATION.
1505.0520 CONTENTS OF APPLICATION.
- 1505.0530 AMOUNT OF GRANT.
1505.0540 GRANTS FOR PLANTING FIRST 50 TREES ON PUBLIC LANDS.
1505.0541 REQUEST FOR PAYMENT.
1505.0542 CONTENTS OF REQUEST FOR PAYMENT.
1505.0543 GRANT PAYMENTS FOR ACTUAL SANITATION AND REFORESTATION COSTS.
1505.0544 ELIGIBLE COSTS.
1505.0545 REFORESTATION ACTIVITIES ON PUBLIC LANDS ELIGIBLE FOR GRANTS.
1505.0546 COSTS INCURRED BY MUNICIPALITY.
WOOD UTILIZATION AND DISPOSAL SYSTEMS
1505.0550 GRANTS-IN-AID FOR WOOD UTILIZATION AND DISPOSAL SYSTEMS.
1505.0560 PROVISIONS OF GRANTS.
1505.0570 GENERAL CRITERIA FOR ADMINISTRATION OF GRANTS-IN-AID.
1505.0580 OTHER SPECIFIC CRITERIA.
1505.0590 REQUESTS FOR GRANT-IN-AID PAYMENTS.
1505.0600 RECORDS.
- QUARANTINES**
- 1505.0610 QUARANTINE NO. 9.
1505.0620 QUARANTINE NO. 10.
1505.0630 TABLE OR CONSUMER STOCKS.
1505.0640 PLANTING STOCKS.
1505.0650 CONVEYANCES AND MACHINERY.
1505.0660 BAGS AND OTHER CONTAINERS.
1505.0670 PLANTINGS OF POTATOES.
1505.0680 WASTE OR REFUSE.
- WHITE PINE BLISTER RUST CONTROL**
- 1505.0690 CONTROL AREA.
1505.0700 PLANTING RESTRICTIONS.
1505.0710 SHIPPING RESTRICTIONS.
1505.0720 PREVIOUS ORDERS SUPERSEDED.
NOXIOUS WEEDS
1505.0730 NOXIOUS WEEDS.
1505.0740 SECONDARY WEEDS.
1505.0750 ADDING TO NOXIOUS WEED LIST.
1505.0760 COUNTY AGRICULTURAL INSPECTOR QUALIFICATION GUIDELINES.
- PLANT PEST ACT; SALE OF CERTAIN NURSERY STOCK**
- 1505.0770 DISTRIBUTION, SALE, AND ACCEPTABILITY OF ROSE BUSHES.
1505.0780 WILD NURSERY STOCK.
1505.0790 BENCH ROSES AND OTHER GREENHOUSE STOCK.
1505.0800 CARE OF NURSERY STOCK HELD FOR SALE.
1505.0810 CARE OF BALLED AND BURLAPPED NURSERY STOCK HELD FOR SALE.
1505.0820 DORMANT NURSERY STOCK HELD FOR SALE.
- PESTICIDE CONTROL**
- 1505.0830 AUTHORITY.
1505.0840 DEFINITIONS.
1505.0850 INCIDENTS.
1505.0860 RECORDS.
1505.0870 SPECIAL LOCAL NEED.
1505.0880 APPLICATION FOR SPECIAL LOCAL NEED REGISTRATION.
1505.0890 SPECIAL LOCAL NEED REGISTRATION.
1505.0900 NOTICE AND NEWS RELEASE.

- | | |
|--|---|
| 1505.0910 WRITTEN OBJECTIONS. | 1505.1210 PESTICIDE APPLICATOR COMPANY LICENSE OR REGISTRATION CERTIFICATE. |
| 1505.0920 REVOCATION, SUSPENSION, OR AMENDMENT. | 1505.1220 MEANS OF IDENTIFICATION. |
| 1505.0930 SPECIAL LOCAL NEED REGISTRATION. | 1505.1230 ENFORCEMENT. |
| 1505.0940 CERTIFICATION REQUIREMENTS. | 1505.1240 FINANCIAL RESPONSIBILITY. |
| 1505.0950 RECERTIFICATION REQUIREMENTS. | 1505.1250 LIMITS OF LIABILITY FOR COMMERCIAL PESTICIDE APPLICATORS. |
| 1505.0960 REEXAMINATION PROCEDURES. | 1505.1260 LIMITS OF LIABILITY FOR STRUCTURAL PEST CONTROL APPLICATORS. |
| 1505.0970 CERTIFICATION ALTERNATIVES. | 1505.1270 ACTIVITIES REQUIRING FINANCIAL RESPONSIBILITY. |
| 1505.0980 PRIVATE APPLICATOR. | 1505.1280 RECIPROCAL AGREEMENT. |
| 1505.0990 MASTER STRUCTURAL PEST CONTROL APPLICATOR'S LICENSE. | 1505.1290 RECIPROCAL AGREEMENT BETWEEN STATES. |
| 1505.1000 JOURNEYMAN STRUCTURAL PEST CONTROL APPLICATOR LICENSE. | DISPOSAL OF REFUSE FROM TRANSPORT INVOLVED IN FOREIGN COMMERCE |
| 1505.1010 STRUCTURAL PEST CONTROL FUMIGATOR LICENSE. | 1505.1300 AUTHORITY. |
| 1505.1020 RESTRICTED USE DEALER LICENSE. | 1505.1310 DEFINITIONS. |
| 1505.1030 ALTERNATIVE FOR LICENSING REQUIREMENT. | 1505.1320 REGISTRATION. |
| 1505.1040 CONTINUING EDUCATION. | 1505.1330 ANNUAL INSPECTION. |
| 1505.1050 ANNUAL LICENSE RENEWAL. | 1505.1340 REVOCATION OF CERTIFICATE. |
| 1505.1060 ALTERNATIVE LICENSE RENEWAL PROCEDURES. | 1505.1350 REFUSE HANDLING. |
| 1505.1070 RESTRICTED USE PESTICIDES. | 1505.1360 RETENTION OF REFUSE. |
| 1505.1080 USES AND PROCEDURES. | 1505.1370 DELIVERY OF REFUSE. |
| 1505.1090 USE OF LINDANE. | 1505.1380 REDUCTION TO ASH OR STERILIZATION. |
| 1505.1100 RESTRICTED USE PESTICIDES DISPLAY FOR SALE. | 1505.1390 SPILLAGE. |
| 1505.1110 STORAGE, HANDLING, AND USE OF PESTICIDES. | 1505.1400 CONTAINERS. |
| 1505.1120 MEANS OF CONTAINMENT. | 1505.1410 VEHICLES. |
| 1505.1130 EQUIPMENT FOR PROPER APPLICATION OF PESTICIDES. | 1505.1420 APPROVED REFUSE DISPOSAL. |
| 1505.1140 PESTICIDE HANDLING PROCEDURES. | 1505.1430 DUNNAGE DISPOSAL. |
| 1505.1150 MEASURING EQUIPMENT. | 1505.1440 ALTERNATIVE MEANS OF DISPOSAL. |
| 1505.1160 UNIFORM MIXTURE OF PESTICIDE. | 1505.1450 FINANCIAL RESPONSIBILITY FOR TREATMENT OF DUNNAGE OR REFUSE. |
| 1505.1170 APPLICATIONS OF PESTICIDES. | |
| 1505.1180 CLEAN EQUIPMENT. | |
| 1505.1190 LABELING PESTICIDE CONTAINERS. | |
| 1505.1200 AIRCRAFT USED IN APPLICATION OF PESTICIDES. | |

SHADE TREE PROGRAM

1505.0010 AUTHORITY.

Parts 1505.0010 to 1505.0600 are prescribed by the commissioner pursuant to Minnesota Statutes, section 18.023 to implement a program to control Dutch elm disease and oak wilt by local units of government and to include procedures and criteria for three grant-in-aid programs.

Statutory Authority: *MS s 18.023 subd 2*

1505.0020 DEFINITIONS.

Subpart 1. Applicability. For purposes of parts 1505.0010 to 1505.0600, the following definitions, in addition to those in Minnesota Statutes, section 18.023, shall apply.

Subp. 2. Act. "The act" means Minnesota Statutes, section 18.023, as amended.

Subp. 3. Commissioner. "Commissioner" means the commissioner of agriculture or his designee.

Subp. 4. Disease control area. "Disease control area" means an area designated by a municipality in which it will conduct a shade tree disease control program according to these rules. The extent of this control area shall be determined by the municipality and approved by the commissioner.

Subp. 5. Equipment. "Equipment" means machinery or devices which singularly or in combination are designed, constructed, or operated for the purpose of wood utilization and/or disposal, and shall include all machinery, tools, and devices ancillary to the use of such machinery or devices.

Subp. 6. Facility. "Facility" means land, buildings, and other appurtenances which are necessary or useful in the operation of wood utilization or disposal equipment.

MINNESOTA RULES 1983

565

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0050

Subp. 7. **Population.** "Population" means the population of a municipality as published by the United States Bureau of Census, in the most recent federal census.

Subp. 8. **Shade tree.** "Shade tree" means any oak or elm tree situated in a disease control area approved by the commissioner.

Subp. 9. **Shade tree disease.** "Shade tree disease" means Dutch elm disease caused by *Ceratocystis ulmi*, or oak wilt caused by *Ceratocystis fagacearum*.

Subp. 10. **Town.** "Town" means township as described in Minnesota Statutes, section 18.023, subdivision 1, as amended.

Subp. 11. **Tree inspector.** "Tree inspector" means a person who has the necessary qualifications to properly plan, direct, and supervise all requirements for controlling shade tree disease in one or more governmental subdivisions within the geographical limits set by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

TREE INSPECTORS

1505.0030 TREE INSPECTOR EMPLOYMENT.

In order to be eligible for grants-in-aid pursuant to these rules, a municipality shall either individually or jointly with one or more other municipalities employ or retain a tree inspector on a continuous year round basis as provided by the act.

Statutory Authority: *MS s 18.023 subd 2*

1505.0040 PROVISIONAL APPOINTMENTS.

A municipality may provisionally appoint a tree inspector for a period of not more than six months. This appointment shall be dependent upon approval by the commissioner after determining the competence of the appointee. The provisional appointment shall not be extended and the appointee shall pass the tree inspector examination to become certified. The provisional appointment may be withdrawn for cause by the commissioner upon notice and hearing.

Statutory Authority: *MS s 18.023 subd 2*

1505.0050 TREE INSPECTOR QUALIFICATIONS.

A tree inspector shall be able to demonstrate the following qualifications:

A. identify all native tree species, with or without leaves, common to his/her work area, and all felled or downed trees with bark intact;

B. know and understand the biology of oak wilt and Dutch elm disease;

C. be familiar with the problems of elm trees and oak trees other than those of Dutch elm disease and/or oak wilt, as well as identifying symptoms characteristic of these problems that affect oak and elm trees;

D. know the proper method of collecting samples for disease diagnosis;

E. know the appropriate Minnesota laws and rules relative to oak wilt and Dutch elm disease;

F. know the approved control methods for oak wilt and Dutch elm disease; and

G. be familiar with the recommended tree species to be used in the replanting program, their planting requirements, available through the University of Minnesota Extension Service, and the care of these trees after planting.

Statutory Authority: *MS s 18.023 subd 2*

1505.0060 FAILURE TO APPOINT TREE INSPECTOR.

If a municipality fails to appoint a tree inspector, an appointment may be made by the commissioner pursuant to the act. Ten working days prior to such appointment, the commissioner shall notify the municipality by mail of such pending appointment. An inspector appointed by the commissioner shall be paid by the municipality for a minimum of 90 days, even though the municipality may appoint its own inspector prior to the expiration of 90 days. This provision shall not apply to a municipality that has suspended or terminated the employment of a tree inspector for cause.

Statutory Authority: *MS s 18.023 subd 2*

1505.0070 CERTIFICATION OF TREE INSPECTOR.

A tree inspector shall be certified upon the passing of an examination prescribed by the commissioner for the purpose of determining that the applicant possesses the necessary qualifications set forth in parts 1505.0030 to 1505.0090. The commissioner shall notify by mail each applicant and municipality of the time and date for such an examination. The applicant shall be notified of the results of the examination within 15 days after its administration.

Statutory Authority: *MS s 18.023 subd 2*

1505.0080 CONTINUING EDUCATION PROGRAM.

After certification, a tree inspector shall be required to annually attend at least one program of continuing education approved by the commissioner. Failure to attend one such continuing education program, or failure to meet alternative certification requirements, shall terminate certification.

Statutory Authority: *MS s 18.023 subd 2*

1505.0090 CERTIFICATION ALTERNATIVES.

Upon written application, the commissioner shall grant to an individual an alternative for the certification requirement and procedures set forth in parts 1505.0030 to 1505.0090 provided that: there is good cause why the individual cannot comply with the provision of parts 1505.0030 to 1505.0090; the requirements and procedures provided for in the alternative are equivalent to those set forth in parts 1505.0030 to 1505.0090; when an examination is involved, the subject matter and difficulty of the examination are equivalent to the examination for which the alternative is granted; the intent of the act and these rules is not violated; and the environment or the public will not be adversely affected by the alternative requirements or procedures.

Statutory Authority: *MS s 18.023 subd 2*

SHADE TREE DISEASE CONTROL PROGRAM**1505.0100 ELEMENTS.**

The shade tree disease control program of a municipality affected by parts 1505.0010 to 1505.0600 must include at least the following elements. However, the ordinances or resolutions adopted by the municipality regarding the local shade tree disease control program may be more stringent than the provisions of parts 1505.0010 to 1505.0600.

Statutory Authority: *MS s 18.023 subd 2*

1505.0110 CONTROL AREA.

Each municipality shall designate an area or areas in which the municipality shall enact control procedures for Dutch elm disease and/or oak wilt. The extent of the control areas will be determined by the municipality and approved by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

MINNESOTA RULES 1983

567

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0170

1505.0120 PROGRAM PLAN.

Each municipality shall prepare a shade tree disease control program plan detailing the manner in which the requirements set forth in parts 1505.0100 to 1505.0380 shall be fulfilled.

Statutory Authority: *MS s 18.023 subd 2*

1505.0130 METHODS OF IDENTIFYING DISEASED SHADE TREES.

Diseased shade trees shall be identified by generally accepted field symptoms such as wilting, yellowing of leaves, and/or staining of wood under the bark. Confirmation, when determined to be necessary by the certified municipal tree inspector, shall be made by the Minnesota Department of Agriculture tree disease laboratory, or other laboratories capable of performing such services approved by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0140 TREE INVENTORY.

Each municipality shall maintain a reasonable estimate of: the number of elms, oaks, and other tree species on both public and private property within the control area of the municipality as well as those regions of the municipality outside this control area; estimates of the tree count shall be made by acceptable forest inventory procedures; these records shall be permanent and shall be filed with the commissioner; the number of high risk and low risk elm trees anticipated; and the schedule for the continuous and orderly removal of low risk elm trees. The removal of low risk trees shall commence after the removal of all of the high risk trees identified prior to June 25, shall be conducted on a continuous basis, and shall be completed prior to April 1 of the following year.

Statutory Authority: *MS s 18.023 subd 2*

1505.0150 SANITATION FOR DUTCH ELM DISEASE CONTROL.

All elm bark beetles, trees affected with Dutch elm disease, and any dead or weakened elm wood arising from any cause shall be eliminated in a timely manner within the control area of the municipality. This shall include trees on private property.

Statutory Authority: *MS s 18.023 subd 2*

1505.0160 INSPECTION.

Prior to April 1 of each year, municipalities shall inspect all public and private properties for elm wood or logs/stumps that could serve as bark beetle breeding sites, and require by April 1, removal, or debarking, of all wood, logs, and stumps to be retained. Before making any inspection on private property within a municipality, it shall be the duty of the municipality to give notice of said inspection to all affected residents and property owners either through an individual oral or written notice, or by publishing said notice in a local newspaper.

Statutory Authority: *MS s 18.023 subd 2*

1505.0170 FREQUENCY OF INSPECTION.

Each municipality shall inspect all elm trees within a control area at least three times during the growing season, by June 15, July 15, and August 15, for Dutch elm disease symptoms. For a control program to be most effective, it is highly recommended that continuous inspections be initiated in those areas where the incidence of the disease is severe.

Statutory Authority: *MS s 18.023 subd 2*

1505.0180 SUMMER GENERATION OF ELM BARK BEETLES.

Due to a summer generation of elm bark beetles emerging in late July, the municipality's tree inspector shall be responsible for: visually identifying whether a tree infected with Dutch elm disease has extensive wilt or is only showing early symptoms of the disease; and categorizing trees infected with Dutch elm disease as either high risk trees or low risk trees.

Statutory Authority: *MS s 18.023 subd 2*

1505.0190 HIGH RISK ELM TREES.

High risk elm trees shall be those trees that are dead, barren, or have extensive wilt (30 percent or more of the tree is wilted). Such trees shall be identified and marked in a distinctive manner to indicate their high risk status prior to June 25. These high risk trees located on public property shall be removed within 20 days of identification. High risk trees located on private property shall be removed within 20 days of notification of the property owner. Any high risk tree identified and marked after June 25 shall be removed within 20 days of identification on public property and within 20 days of notification on private property.

Statutory Authority: *MS s 18.023 subd 2*

1505.0200 LOW RISK ELM TREES.

Low risk elm trees shall be those trees that show early stages of infection in June or subsequently during the growing season with those symptoms not progressing beyond the 30 percent wilting point. Such trees shall be identified, marked, and removed before April 1 of the following year. Municipalities shall make every reasonable effort to remove all low risk trees on private and public property within 20 days of notification, but in no case shall it be later than April 1 of the following year. Only methods of removal approved by the commissioner shall be utilized.

Statutory Authority: *MS s 18.023 subd 2*

1505.0210 TREES NOT REMOVED WITHIN TIME PERIODS PROVIDED.

All dead or diseased elm trees, including any above ground parts thereof on private property which are not removed within the time periods provided for in these rules or within the time limits established by the municipality, if more stringent, shall be removed by the municipality within 20 days and the costs thereof assessed against the property.

Statutory Authority: *MS s 18.023 subd 2*

1505.0220 ALTERNATIVE REMOVAL SCHEDULE.

If upon application of the municipality the commissioner has determined that extraordinary circumstances prevented the removal of the trees according to the schedule described above and that good cause has been shown by the municipality, the commissioner shall establish an alternative removal schedule based upon a program which will expedite their timely removal.

Statutory Authority: *MS s 18.023 subd 2*

1505.0230 METHODS OF DISPOSAL.

All diseased elm trees including the above ground parts thereof shall be properly disposed of by such methods including burning, burying, chipping, and utilization.

Statutory Authority: *MS s 18.023 subd 2*

MINNESOTA RULES 1983

569

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0300

1505.0240 STUMPS.

Stumps of all elm trees shall be removed or debarked to the groundline to eliminate all possibilities of beetle habitation.

Statutory Authority: *MS s 18.023 subd 2*

1505.0250 STOCKPILING AND STORAGE OF ELM LOGS.

Stockpiling and storage of elm logs with bark intact shall be prohibited except during the period September 15 through April 1 of the following year at locations specifically allowed by individual municipal permits or a municipal ordinance.

Statutory Authority: *MS s 18.023 subd 2*

1505.0260 ROOT GRAFT CONTROL.

It is recommended to a municipality that all common root systems of trees growing within 40 to 50 feet of a tree infected with Dutch elm disease should be disrupted by chemical or mechanical means as approved by the commissioner to prevent root graft spread of Dutch elm disease. Refer to the Agricultural Extension Service, University of Minnesota extension folder 211-revised 1977, The Dutch Elm Disease, pages 8 to 12.

Statutory Authority: *MS s 18.023 subd 2*

1505.0270 OAK WILT.

Although oak wilt and Dutch elm disease are both vascular infections caused by a fungus, each infection shall be dealt with separately. Control methods prescribed for each disease are different, and, again, shall be dealt with separately. Oak wilt control shall include the disruption of root grafts and the prevention of infection by insect-carried spores (overland spread).

Statutory Authority: *MS s 18.023 subd 2*

1505.0280 ROOT GRAFT CONTROL.

Since most oak trees are susceptible to the fungus through root grafts, it is recommended to a municipality that all common root systems of trees growing within 40 to 50 feet of a diseased oak tree of the same species should be disrupted by chemical or mechanical means to prevent the root graft transmission of the oak wilt fungus as approved by the commissioner. Refer to Agricultural Extension Service, University of Minnesota extension folder 310-1975, Oak Wilt Disease.

Statutory Authority: *MS s 18.023 subd 2*

1505.0290 CONTROL OF OVERLAND SPREAD OF OAK WILT.

To control the overland spread of the disease, a municipality shall: avoid pruning or other mechanical damage during the most susceptible period of May and June. A tree inspector may determine that emergency pruning by utility companies is necessary during this susceptible period if trees interfere with utility lines. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing shall be applied.

Statutory Authority: *MS s 18.023 subd 2*

1505.0300 GIRDLING.

Red oak trees diagnosed as having oak wilt may be girdled as soon as they are detected in order to reduce spore production. Girdling shall be done only in areas where a weakened tree will not constitute a hazard to life and/or property should it fall.

Statutory Authority: *MS s 18.023 subd 2*

1505.0310 RED OAK GROUP.

Identify, mark, and remove from both private and public property by April 1 of the following year those trees in the red oak group that wilt in July and August that could have spores on them the following May or June. The trees in this group are the northern red oak (*Quercus rubra*); northern pin oak (*Quercus ellipsoidalis*); black oak (*Quercus velutina*); and scarlet oak (*Quercus coccinea*).

Statutory Authority: *MS s 18.023 subd 2*

1505.0320 REMOVAL AND DISPOSAL OF DISEASED OAK TREES.

After notification by the municipality, private property owners shall remove and properly dispose of diseased oak trees including any above ground parts thereof by April 1 by burning, burying, chipping, and utilization which includes the storage of the wood as set forth in Agricultural Extension Service, University of Minnesota extension folder 310-1975, Oak Wilt Disease.

Statutory Authority: *MS s 18.023 subd 2*

1505.0330 REMOVAL BY MUNICIPALITY.

Trees or parts thereof not removed on or before April 1 by the property owner shall be removed by the municipality within 20 days after notification and the cost thereof assessed against the property.

Statutory Authority: *MS s 18.023 subd 2*

1505.0340 STUMPS.

Stumps of red oak trees removed due to oak wilt shall be removed or debarked to the groundline to eliminate all possibilities of spore formation.

Statutory Authority: *MS s 18.023 subd 2*

1505.0350 RECORDS.

Shade tree disease program records shall be kept by each municipality and shall be made available for examination at reasonable times by the commissioner. These records shall include the following:

- A. moneys expended on personnel, equipment, and contracts, listed separately;
- B. man hours spent on tree inventory, sanitation, and any chemical measures;
- C. an initial inventory of trees;
- D. the number of diseased trees identified on private and public property, and the dates of identification;
- E. the number and the dates of trees removed, both diseased and other, on private and public property;
- F. the number of log piles found which were a hazard in the spread of a shade tree disease; and
- G. other information deemed relevant and necessary by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0360 YEARLY REPORT.

A yearly report containing a summation of these records shall be made to the commissioner by December 1.

Statutory Authority: *MS s 18.023 subd 2*

MINNESOTA RULES 1983

571

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0420

1505.0370 PROGRAM REVIEW.

By December 31 of each year, a municipality must submit to the commissioner its shade tree disease control and replanting programs for the following calendar year. The commissioner shall review these programs to determine if the requirements of the law and the applicable rules have been met. Final determination of municipal program compliance with the rules shall rest with the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0380 CHANGES IN MUNICIPAL PROGRAM.

The commissioner may require that changes be made in any municipal program whenever a determination is made that such changes are needed to comply with the act or parts 1505.0100 to 1505.0600.

Statutory Authority: *MS s 18.023 subd 2*

SANITATION AND REFORESTATION PROGRAMS

1505.0390 GRANTS-IN-AID TO MUNICIPALITIES FOR SANITATION AND REFORESTATION PROGRAMS.

The commissioner may, in the name of the state and within the limits of appropriations provided, make grants-in-aid to a municipality with an approved disease control program for the partial funding of municipal sanitation and reforestation programs. One grant shall be made for all eligible sanitation and reforestation costs.

Statutory Authority: *MS s 18.023 subd 2*

1505.0400 SANITATION GRANTS TO MUNICIPALITY.

Grants to any municipality for sanitation shall not exceed 50 percent of the municipality's total cost for sanitation approved by the commissioner. The total cost may include any amounts paid for sanitation by special assessments, ad valorem taxes, federal grants, or other funds. A municipality may assess to the abutting property not more than 50 percent of the expense of treating with an approved method or removing diseased shade trees located on street terraces or boulevards to that abutting property. Grants shall not be made to a municipality if the total cost of tree removal has been incurred solely by the individual property owner and the municipality has not reduced the cost to the property owner via direct subsidy or reduced special assessment. The only amount that may be included in the municipality's total cost for purposes of computing the above described reimbursement is the reduction of the cost to the property owner. Provision is made for municipalities with population of less than 1,000 pursuant to Minnesota Statutes, section 18.023, subdivision 3c, as amended.

Statutory Authority: *MS s 18.023 subd 2*

1505.0410 REFORESTATION GRANTS TO MUNICIPALITY.

Grants to any municipality for reforestation shall not exceed 50 percent of the cost to the municipality for reforestation on public property. Grants shall not exceed \$50 per tree planted.

Statutory Authority: *MS s 18.023 subd 2*

1505.0420 REFORESTATION GRANTS TO COUNTY.

Reforestation grants to any county with an approved disease control program may include 90 percent of the cost of planting the first 50 trees on public lands in a town not defined as a municipality of less than 1,000 population, upon the town's application to the county and county's designation

1505.0420 PLANT AND ANIMAL DISEASES: PEST CONTROL

572

of the town as a disease control area. The grant for these 50 trees shall not exceed \$60 per tree planted.

Statutory Authority: *MS s 18.023 subd 2*

1505.0430 REFORESTATION GRANTS TO TOWNS AND MUNICIPALITIES.

Reforestation grants to towns and home rule charter or statutory cities with an approved disease control program which are defined as municipalities in the act and are less than 4,000 in population may include 90 percent of the cost of planting the first 50 trees on public lands. The grant for these 50 trees shall not exceed \$60 per tree planted.

Statutory Authority: *MS s 18.023 subd 2*

1505.0440 REFORESTATION ADVISORY COMMITTEE.

Any municipality that receives a grant for reforestation shall have appointed seven residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the municipality in the development and administration of the reforestation program.

Statutory Authority: *MS s 18.023 subd 2*

1505.0450 PROGRAM ELIGIBILITY.

A municipality is eligible to receive sanitation and reforestation grants upon submitting to the commissioner by December 31 a completed program application form provided by the commissioner, and upon receiving notice of an approved disease control program designation. Extensions shall be granted for good cause shown.

Statutory Authority: *MS s 18.023 subd 2*

1505.0460 PROGRAM APPLICATION.

The program application shall serve as the basis for approving the municipality's shade tree disease control program.

Statutory Authority: *MS s 18.023 subd 2*

1505.0470 APPROVAL.

Approval shall be granted only upon the municipality's agreement to conduct its sanitation program in conformance with these rules and disease control practices designated by the commissioner upon the recommendation of the shade tree advisory committee.

Statutory Authority: *MS s 18.023 subd 2*

1505.0480 MINNESOTA AGRICULTURAL EXTENSION SERVICE.

Approval shall only be granted upon the municipality's agreement to conduct its reforestation program in a manner consistent with advice and counsel given the commissioner by the Minnesota agricultural extension service.

Statutory Authority: *MS s 18.023 subd 2*

1505.0490 REVOCATION OF APPROVAL.

Program approval may be revoked upon a determination by the commissioner that the municipality has failed to conduct its sanitation and reforestation program in conformance with the standards set forth in parts 1505.0390 to 1505.0540. Such a determination or disapproval of a municipal program or control area may be appealed by the municipality and upon request, a hearing pursuant to Minnesota Statutes, chapter 14 shall be granted.

Statutory Authority: *MS s 18.023 subd 2*

MINNESOTA RULES 1983

573

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0530

1505.0500 TERMINATION OF GRANTS.

Sanitation and reforestation grants may be terminated upon municipality's failure to maintain an approved shade tree disease control program and upon evidence that proper record keeping and documentation has not been maintained.

Statutory Authority: *MS s 18.023 subd 2*

1505.0510 PROGRAM APPLICATION.

To receive a sanitation and reforestation grant, a municipality must submit to the commissioner by December 31 a completed program application form provided by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0520 CONTENTS OF APPLICATION.

A municipality's program application shall include, but not be limited to the following information:

A. an inventory of shade trees within the municipality's disease control area and an estimate of the distribution of these shade trees between public and private lands;

B. a complete description of the municipality's sanitation and reforestation programs which shall include:

- (1) the method and schedule of diseased trees surveys;
- (2) the extent of disease control tree trimming activities;
- (3) the policies for removal of trees on public lands;
- (4) the policies for removal of trees on private lands;
- (5) the method and location of disposal tree wastes;

(6) the policies for planting new shade trees, including: the source of nursery stock, if known; species planted; type of stock planted; distribution of species; and other relevant information;

(7) the methods of financing sanitation and reforestation programs, including: the use of funds derived from general tax levies; special assessments; federal funds; other sources of funding;

(8) a complete description of the municipality's subsidy program, if any; and

(9) the name or names of the person or persons or committee appointed by the municipality to advise the municipality in the development and administration of the reforestation program;

C. a statement of planned expenditures for the sanitation and reforestation program for the calendar year;

D. a copy of the local ordinances and resolutions authorizing the local shade tree program; and

E. other information deemed necessary and relevant by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0530 AMOUNT OF GRANT.

Except for the first 50 trees for towns and cities as set forth in part 1505.0540, grants for sanitation and reforestation shall be 50 percent of the applicant's planned expenditures for sanitation and reforestation, unless 50 percent of the total planned expenditures for all applicants exceeds the funds designated for sanitation and reforestation grants; in which case, grants shall be a pro rata allocation among the eligible applicants. Reforestation grants shall

not exceed \$50 per tree planted.

Statutory Authority: *MS s 18.023 subd 2*

1505.0540 GRANTS FOR PLANTING FIRST 50 TREES ON PUBLIC LANDS.

Grants for planting the first 50 trees on public lands in eligible towns and cities may be 90 percent of the town's or city's planned expenditures for planting those trees, providing the availability of sufficient funding. The grant for these 50 trees shall not exceed \$60 per tree planted.

Statutory Authority: *MS s 18.023 subd 2*

1505.0541 REQUEST FOR PAYMENT.

A municipality receiving a sanitation and reforestation grant shall make request for payment upon forms provided by the commissioner.

Payment periods shall be January 1 through March 31; April 1 through June 30; July 1 through September 30; and, October 1 through December 31 of each calendar year.

Requests for payment shall be due 45 days after the close of the preceding payment period unless the municipality has requested and received an extension of time from the commissioner. Costs in one request for payment period may be carried over into a succeeding payment period, but shall not be carried over into a succeeding calendar year.

Requests for payments may be for the lesser of actual costs incurred or costs not to exceed the limits established by the commissioner during the payment period for which documentation for such costs and expenditures can be produced upon request of the commissioner. Requests may also be made for advance payments for planned expenditures for the succeeding period.

Statutory Authority: *MS s 18.023 subd 2*

1505.0542 CONTENTS OF REQUEST FOR PAYMENT.

Request for payment shall include:

- A. the population of the municipality making the request for payment;
- B. a statement of actual sanitation and reforestation costs for the payment period;
- C. if advance payments for planned expenditures are sought by the municipality, a statement of planned expenditure for the succeeding payment period;
- D. the signature of an authorized agent of the municipality making the request for payment; and,
- E. notarization of the agent's signature.

Statutory Authority: *MS s 18.023 subd 2*

1505.0543 GRANT PAYMENTS FOR ACTUAL SANITATION AND REFORESTATION COSTS.

Grant payments for actual sanitation and reforestation costs incurred shall be a percentage of the actual costs stated in the municipality's request for payment, that percentage being the same percentage used to make the initial grant award.

Advance grant payments for planned sanitation and reforestation expenditures shall be a percentage of the planned expenditures for the succeeding payment period stated in the municipality's request for payment, that percentage being the same percentage used to make the initial grant award.

In the event that planned expenditures exceed or are less than actual costs incurred by the municipality for a payment period for which advance payment was made, the appropriate adjustments shall be made in the next request for payment submitted by the municipality.

MINNESOTA RULES 1983

575

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0546

In the event that over payment is made to the municipality by the commissioner because of an advance over payment for the last payment period of the calendar year, the municipality shall be liable to the state for the amount of over payment, and shall make payment of this amount to the state within 30 days after notice of such over payment is received.

Statutory Authority: *MS s 18.023 subd 2*

1505.0544 ELIGIBLE COSTS.

Grants shall be based upon the total eligible cost of the municipality of its sanitation and reforestation program.

Sanitation activities on public and private lands which are eligible for grants shall include:

- A. diseased tree identification and inspection;
- B. disruption of common root systems;
- C. trimming of elm and oak trees for purposes of disease control;
- D. girdling of oak trees where appropriate for purposes of disease control;
- E. removal and operational costs associated with the disposal of dead or diseased wood of elm and oak trees; and
- F. subsidies for trees removed from private property pursuant to Minnesota Statutes, section 18.023, subdivision 4.

Statutory Authority: *MS s 18.023 subd 2*

1505.0545 REFORESTATION ACTIVITIES ON PUBLIC LANDS ELIGIBLE FOR GRANTS.

Reforestation activities on public lands which are eligible for grants shall be limited to acquisition of nursery stock and tree planting which includes only the initial cost of planting, watering, fertilizing, and staking. Maintenance costs thereafter shall not be eligible for reimbursement.

Statutory Authority: *MS s 18.023 subd 2*

1505.0546 COSTS INCURRED BY MUNICIPALITY.

Grants shall be made only for costs incurred by the municipality in the actual and direct physical performance of sanitation and reforestation activities.

Grants shall be made for costs to be paid by:

- A. ad valorem taxes;
- B. special assessments pursuant to a municipal program whereby the sanitation activity is carried out by municipal employees or a contractor acting in behalf of the municipality; however, no assessment shall exceed the total of the sanitation cost less the amount of grant for such cost;
- C. a charge through direct invoice to a property owner pursuant to a municipal program whereby the sanitation activity is carried out by municipal employees or a contractor acting in behalf of the municipality; however, no charge against a property owner shall exceed the total sanitation cost less the amount of grant for such cost;
- D. federal grants; and
- E. in the case of a municipality with a population of less than 1,000, documented in kind services or voluntary work from or by private sources.

Statutory Authority: *MS s 18.023 subd 2*

WOOD UTILIZATION AND DISPOSAL SYSTEMS**1505.0550 GRANTS-IN-AID FOR WOOD UTILIZATION AND DISPOSAL SYSTEMS.**

The commissioner shall within the money appropriated make grants-in-aid to eligible applicants for the cost of facilities, equipment, and systems for the disposal or utilization of diseased shade trees. Such grants-in-aid shall be made to: any home rule charter or statutory city; any special purpose park and recreation board organized under a charter of a city of the first class; any nonprofit corporation serving a city of the first class; or any county.

Statutory Authority: *MS s 18.023 subd 2*

1505.0560 PROVISIONS OF GRANTS.

Such grants shall be made with the following provisions:

- A. the city (cities) or county has an approved shade tree disease control program as described in the act or these rules;
- B. grants-in-aid may be less than but shall not exceed 50 percent of the cost of such facility, equipment, or system;
- C. grants-in-aid shall not be made for costs of operating such facility, equipment, or system;
- D. grants-in-aid for site acquisitions shall be made only for land used in the actual operational site; and
- E. grants-in-aid shall not be made by the commissioner until he receives certified evidence of the actual cost of the equipment or site.

Statutory Authority: *MS s 18.023 subd 2*

1505.0570 GENERAL CRITERIA FOR ADMINISTRATION OF GRANTS-IN-AID.

Grants-in-aid to eligible applicants shall be made by the commissioner provided that such wood disposal utilization system meets the following criteria:

- A. it aids in the control of shade tree diseases;
 - B. it aids in the recovery of material or energy from wood;
 - C. it is located to accomplish the above with maximum efficiency and use of available facilities;
 - D. it is available to all parties, public and private;
 - E. it is able to render wood pest-risk free within five days of delivery to the site unless an extension of time has been granted by the commissioner based on existing circumstances of the disposal/utilization site;
 - F. it includes adequate manpower to operate and service equipment;
- and
- G. it provides for proper handling and the timely removal of processed wood from the site.

Statutory Authority: *MS s 18.023 subd 2*

1505.0580 OTHER SPECIFIC CRITERIA.

In addition to the general criteria under part 1505.0560, the commissioner, as appropriate, may consider other specific criteria including the following in evaluating grant payment requests:

- A. Sites for wood disposal systems:
 - (1) shall be selected on the basis of anticipated volumes of wood and/or the need for a wood disposal system;
 - (2) shall be accessible by roadways that permit year-round truck traffic;
 - (3) shall have adequate storage areas for both processed wood and equipment;
 - (4) shall have protective enclosures, adequate control, and supervision to prevent entry of unwanted materials and unauthorized persons;

MINNESOTA RULES 1983

577

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0610

(5) shall be in compliance with all applicable federal and state statutes, rules, and regulations; and

(6) shall be in conformance with regional solid waste management plans and requirements.

B. Equipment for wood disposal systems:

(1) shall, where feasible, be portable so that it can be used for servicing more than one site;

(2) shall be stationary only when the anticipated volume over a five-year period will fully utilize the facility;

(3) shall be capable of processing large diameter logs; and

(4) shall include auxiliary units and equipment necessary to the operation of the system.

Statutory Authority: *MS s 18.023 subd 2*

1505.0590 REQUESTS FOR GRANT-IN-AID PAYMENTS.

Requests for grant-in-aid payments shall be made on forms provided by the commissioner. Contingent upon the availability of funds, the timeliness of applications and other administrative considerations, the commissioner may set deadlines for consideration of requests which shall be published in the State Register at least 30 days prior to the deadline. Requests for payments shall include the following: an itemized list of the applicant's proposed expenditures for qualifying equipment and/or site, and the total amount of these expenditures; and additional documents or other information deemed relevant by the commissioner.

Statutory Authority: *MS s 18.023 subd 2*

1505.0600 RECORDS.

Applicants receiving grants-in-aid under parts 1505.0550 to 1505.0600 shall keep detailed records concerning the operation of the wood disposal and utilization system and shall make these records available to the commissioner at any reasonable time. Such records shall include: hours of operation; clientele served; volume of wood handled; and other information deemed necessary and relevant by the commissioner. A yearly report containing a summation of these records shall be made to the commissioner by December 1.

Statutory Authority: *MS s 18.023 subd 2*

QUARANTINES

1505.0610 QUARANTINE NO. 9.

Quarantine No. 9 concerns the importation of used potato containers, and the disinfection of such containers to prevent the introduction and spread of certain potato diseases and pests.

WHEREAS, it has been determined by the commissioner of agriculture, that certain infectious and dangerously injurious diseases and pests of potatoes now exist in limited areas of the United States and have become very destructive in the known areas of infestation; and

WHEREAS, these diseases and certain nematodes, potato rot nematode (*Ditylenchus destructor*) and golden nematode (*Heterodera rostochiensis*), are not known to exist in Minnesota and North Dakota;

WHEREAS, it is important that the uninfected and uninfested areas be maintained free of these diseases and pests; and

WHEREAS, it is known that certain used potato containers are capable of spreading such diseases and pests; and

WHEREAS, potato growers from all over the United States and the state of Minnesota and other countries are depending upon Minnesota certified potato seed as a source of seed potatoes free from these diseases and pests;

MINNESOTA RULES 1983

1505.0610 PLANT AND ANIMAL DISEASES: PEST CONTROL

578

THEREFORE, in order to prevent the introduction of such diseases and pests into areas now not infected or infested, it is now necessary and hereby deemed necessary that no bags, boxes, or other containers which have been used for potatoes shall be sold, consigned, or transported into or within the state of Minnesota or used within the state of Minnesota unless such containers have been cleaned and disinfected in an authorized and approved manner so as to kill all bacteria, insects, and nematodes.

All such containers or bundles of such containers as have been cleaned and disinfected shall be marked with a yellow dye and labeled to show the following: method and material used in disinfection, date of treatment, and by whom treated.

Containers used for potatoes produced in Minnesota or North Dakota which have never been outside the boundaries of these two states are not affected by this order.

Statutory Authority: *MS s 18.48 subd 3*

1505.0620 QUARANTINE NO. 10.

Quarantine No. 10 provides for the prohibition of the importation of Irish (common) potatoes (*Solanum tuberosum*) into Lake of the Woods County and townships of Laona and Oaks in Roseau County and township of Williams in Koochiching County, Minnesota, by adding provisions restricting or prohibiting the importation of such potatoes or of other materials capable of carrying plant pests into or through this area.

WHEREAS, the area comprised of Lake of the Woods County and townships of Laona and Oaks in Roseau County and the township of Williams in Koochiching County is one of only several small areas left in the potato growing regions of the United States now known to be free of bacterial ring rot (*Corynebacterium sepedonicum*), a certain infectious disease of potatoes, and

WHEREAS, this area has been protected by quarantine, pursuant to Minnesota Statutes, section 18.48, and

WHEREAS, certain other diseases, golden nematode (*Heterodera rostochiensis*) and potato rot nematode (*Ditylenchus destructor*), destructive to the potato industry, are now known to exist in other areas of the country, but not in the aforementioned area, and

WHEREAS, the potato growers in the aforementioned area are isolated, providing an ideal condition for growing foundation seed potatoes, and

WHEREAS, potato growers from all over the United States and the state of Minnesota are depending on this area as a source of seed potatoes free from the aforementioned diseases;

THEREFORE, in order to prevent the introduction of the above mentioned pests into the area composed of Lake of the Woods County and the townships of Laona and Oaks in Roseau County and the township of Williams in Koochiching County, it is necessary and hereby deemed expedient that a quarantine prohibiting the importation or transportation of Irish or common potatoes into this area be continued.

THEREFORE, under and pursuant to the authority conferred by Minnesota Statutes, section 18.48. The area referred to herein is comprised of Lake of the Woods County and the townships of Laona and Oaks in Roseau County and the township of Williams in Koochiching County. The following provisions regarding potatoes, potato farming machinery, and containers are hereby established as a protection to the above mentioned areas.

Statutory Authority: *MS s 18.48 subd 3*

MINNESOTA RULES 1983

579

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0690

1505.0630 TABLE OR CONSUMER STOCKS.

Potatoes may enter the area for sale, offering for sale, trade, or barter only in disposable paper or plastic bags, boxes; each container must show name and address of grower and/or packer and origin (state in which grown).

Statutory Authority: *MS s 18.48 subd 3*

1505.0640 PLANTING STOCKS.

No potatoes used for seed or reproduction may be brought into the area without written approval of properly authorized personnel of the seed potato certification section of the Division of Plant Industry, Minnesota Department of Agriculture.

Statutory Authority: *MS s 18.48 subd 3*

1505.0650 CONVEYANCES AND MACHINERY.

All trucks, tractors, trailers, harvesters, elevators, or other machinery for the growing or handling of the potato crop may be inspected and ordered to be cleaned to the satisfaction of approved personnel of the seed potato certification section of the Division of Plant Industry, Minnesota Department of Agriculture, before entering the fields, warehouses, or premises of any potato grower in the area.

Statutory Authority: *MS s 18.48 subd 3*

1505.0660 BAGS AND OTHER CONTAINERS.

Bags and other containers entering the area for any use or purpose in the potato industry must be new; i.e., made, constructed, or fabricated from materials that have not previously been used. Burlap bags or containers of jute or similar construction entering the area must be in bundles wrapped in kraft paper at the factory.

Statutory Authority: *MS s 18.48 subd 3*

1505.0670 PLANTINGS OF POTATOES.

All plantings of potatoes in the area not entered for certification shall be from seed grown in the Lake of the Woods quarantine area during the previous year and of foundation or approved grade. The seed planted shall be subject to approval before planting by the seed certification sections of the Division of Plant Industry, Minnesota Department of Agriculture, and shall be subject to inspection during the growing season by seed certification inspectors.

Statutory Authority: *MS s 18.48 subd 3*

1505.0680 WASTE OR REFUSE.

The entry of waste or refuse from potato fields, potato processing or storage plants from outside the area, and the dumping thereof into the aforementioned area is prohibited.

Statutory Authority: *MS s 18.48 subd 3*

WHITE PINE BLISTER RUST CONTROL

1505.0690 CONTROL AREA.

All of the land area of the counties of Cook, Lake, St. Louis, Itasca, Koochiching, Beltrami, Clearwater, Mahnomen, Becker, Hubbard, Cass, Crow Wing, Aitkin, Kanabec, Carlton, Pine, Chisago, and Isanti are hereby established as a white pine blister rust control area.

Statutory Authority: *MS s 18.435 subd 3*

MINNESOTA RULES 1983

1505.0700 PLANT AND ANIMAL DISEASES: PEST CONTROL

580

1505.0700 PLANTING RESTRICTIONS.

No currants and gooseberries shall be planted in said counties without the written consent of the commissioner of agriculture.

Statutory Authority: *MS s 18.435 subd 3*

1505.0710 SHIPPING RESTRICTIONS.

No plants, roots, cuttings, or scions belonging to the genera *Ribes* L. and *Grossularia*; (Tourn.) Mill., shall be shipped or transported into or moved within the blister rust control area or areas that are hereby established or hereafter shall be established unless there is attached to each package containing such plants, roots, cuttings, and/or scions a currant and gooseberry planting permit.

Statutory Authority: *MS s 18.435 subd 3*

1505.0720 PREVIOUS ORDERS SUPERSEDED.

Parts 1505.0690 to 1505.0720 supersede any and all previous orders concerning the control of white pine blister rust.

Statutory Authority: *MS s 18.435 subd 3*

NOXIOUS WEEDS

1505.0730 NOXIOUS WEEDS.

The following plants are deemed by the commissioner of agriculture to be injurious to public health, public roads, crops, livestock, and other property as noxious weeds:

Common Name	Botanical Name
Field Bindweed	<i>Convolvulus arvensis</i>
Hemp	<i>Cannabis sativa</i>
Poison Ivy	<i>Rhus radicans</i>
Spurge, leafy	<i>Euphorbia esula</i>
Sowthistle, perennial	<i>Sonchus arvensis</i>
Thistle, bull	<i>Cirsium vulgare</i>
Thistle, Canada	<i>Cirsium arvense</i>
Thistle, musk	<i>Carduus nutans</i>
Thistle, plumeless	<i>Carduus acanthoides</i>

Statutory Authority: *MS s 18.181*

1505.0740 SECONDARY WEEDS.

The common and botanical names for secondary weeds are those listed in the following table.

Common Name	Botanical Name
Alyssum, hoary	<i>Berteroa incana</i>
Artichoke, Jerusalem	<i>Helianthus tuberosus</i>
Buckwheat, wild	<i>Polygonum convolvulus</i>
Buffalobur	<i>Solanum rostratum</i>
Burdock	<i>Arctium minus</i>
Buttercup, tall	<i>Ranunculus acris</i>
Bracken	<i>Pteridium aquilinum</i>
Carrot, wild	<i>Daucus carota</i>
Catchfly, nightflowering	<i>Silene noctiflora</i>
Cockle, white	<i>Lychnis alba</i>
Cocklebur, common	<i>Xanthium pensylvanicum</i>
Daisy, oxeye	<i>Chrysanthemum leucanthemum</i>
Dock, curly	<i>Rumex crispus</i>
Flixweed	<i>Descurainia sophia</i>

MINNESOTA RULES 1983

581

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0760

Foxtail, giant	Setaria faberii
Gumweed	Grindelia squarrosa
Hawksbeard, narrowleaf	Crepis tectorum
Hawksbeard, smooth	Crepis capillaris
Hawkweed, orange	Hieracium aurantiacum
Jimsonweed	Datura Stramonium
Kochia	Kochia scoparia
Lambsquarters, common	Chenopodium album
Mallow, Venice	Hibiscus trionum
Marshelder	Iva xanthifolia
Milkweed, common	Asclepias syriaca
Muhly, wirestem	Muhlenbergia frondosa
Mustard, wild	Brassica kaber
Nightshade, black	Solanum nigrum
Nutsedge, yellow (nutgrass)	Cyperus esculentus
Oat, wild	Avena fatua
Panicum, fall	Panicum dichotomiflorum
Panicum, wild proso millet	Panicum miliaceum
Pigweed, redroot	Amaranthus retroflexus
Pigweed, prostrate	Amaranthus blitoides
Quackgrass	Agropyron repens
Radish, wild	Raphanus raphanistrum
Ragweed, common	Ambrosia artemisiifolia
Ragweed, giant	Ambrosia trifida
Sanbur, field	Cenchrus pauciflorus
Smartweed, Pennsylvania	Polygonum pensylvanicum
Smartweed (ladysthumb)	Polygonum persicaria
Sunflower, common (except cultivars)	Helianthus annuus
Tansy	Tanacetum vulgare
Velvetleaf	Abutilon theophrasti
Yellow rocket	Barbarea vulgaris
Wooly cupgrass	Eriochloa villosa
Wormwood, absinth	Artemisia absinthium

Statutory Authority: *MS s 18.181*

1505.0750 ADDING TO NOXIOUS WEED LIST.

The Minnesota commissioner of agriculture may without further hearing, take a weed or weeds from the secondary list, part 1505.0740, and add it to the noxious weed list, part 1505.0730, on a county basis if: a majority of the township boards and city mayors in a county petition the commissioner of agriculture, on forms provided by the department, to add a weed or weeds to the primary noxious list on the grounds that the weed or weeds are injurious to public health, public roads, crops, livestock, or other property; and the petition is approved by that county's board of county commissioners; and the commissioner of agriculture deems the weed or weeds to be injurious to public health, public roads, crops, livestock, or other property.

Statutory Authority: *MS s 18.181*

1505.0760 COUNTY AGRICULTURAL INSPECTOR QUALIFICATION GUIDELINES.

As of March 26, 1971, the following qualifications have been established to serve as guidelines for county commissioners to consider for applicants for the position of county agricultural inspectors:

A. must be physically able to perform the duties connected with the position; may be asked to have a physical examination at county expense:

- B. must submit legible required reports pertaining to the position;
- C. must have a valid driver's license and have a car at his disposal or be able to obtain one;
- D. must devote necessary time to the position as determined by the Minnesota Department of Agriculture; and
- E. must not engage in activities which may be construed by the Minnesota Department of Agriculture as being a conflict of interest with the duties of the position.

Statutory Authority: *MS s 18.181*

PLANT PEST ACT; SALE OF CERTAIN NURSERY STOCK

1505.0770 DISTRIBUTION, SALE, AND ACCEPTABILITY OF ROSE BUSHES.

It shall be a violation of the Plant Pest Act to sell, offer for sale, or distribute rose bushes on which there is any significant amount of die-back. Canewood shall be alive and with undamaged cambium tissue to a point eight inches from the graft. Any single stem not meeting this specification disqualifies the entire plant. A bush may be pruned to meet these requirements provided that at least one cane remains to qualify.

Statutory Authority: *MS s 18.48 subd 2*

1505.0780 WILD NURSERY STOCK.

It shall be a violation of the Plant Pest Act to sell, offer for sale, or distribute nursery stock collected from the wild state unless it is so labeled. These labels must state "Collected from the wild" and must remain on each plant or clump of plants while it is offered for sale and during the process of distribution. Such collected stock may be grown in nursery rows at least two years and then offered for sale without such labeling.

Statutory Authority: *MS s 18.48 subd 2*

1505.0790 BENCH ROSES AND OTHER GREENHOUSE STOCK.

It shall be a violation of the Plant Pest Act to sell, offer for sale, or distribute greenhouse rose bushes, commonly known as bench roses, unless they are so labeled as bench roses; and also to sell, offer for sale, or distribute any other industry products which have been used in the commercial greenhouse production of cut flowers without adequately and nondeceptively disclosing that such products were used in the commercial greenhouse production of cut flowers and discarded after having served their usefulness in such production.

Statutory Authority: *MS s 18.48 subd 2*

1505.0800 CARE OF NURSERY STOCK HELD FOR SALE.

It shall be required that nursery stock being held for sale to the public be sufficiently watered so that the roots are moist at all times.

Statutory Authority: *MS s 18.48 subd 2*

1505.0810 CARE OF BALLED AND BURLAPPED NURSERY STOCK HELD FOR SALE.

It shall be required that balled and burlapped nursery stock being held for sale to the public be kept in sawdust, shingletow, peat, or some other moisture-holding material not toxic to plants. This moisture-holding material must adequately cover and protect the ball of earth which must be kept moist at all times.

Statutory Authority: *MS s 18.48 subd 2*

MINNESOTA RULES 1983

583

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0840

1505.0820 DORMANT NURSERY STOCK HELD FOR SALE.

It shall be required that dormant nursery stock being held for sale to the public be stored under conditions which will retard growth and protect its viability.

Statutory Authority: *MS s 18.48 subd 2*

PESTICIDE CONTROL

1505.0830 AUTHORITY.

Parts 1505.0830 to 1505.1290 are prescribed pursuant to Minnesota Statutes 1976, sections 18A.21 to 18A.48, by the commissioner of agriculture to implement provisions to protect the immediate and future health, welfare, and economic status of the people of this state through the control of the use of various pesticides including but not limited to herbicides, insecticides, rodenticides, and fungicides. The provisions specified in parts 1505.0830 to 1505.1290 are in addition to those set forth in the act itself.

Statutory Authority: *MS s 18A.43*

1505.0840 DEFINITIONS.

Subpart 1. Applicability. As used in parts 1505.0830 to 1505.1290, the following definitions and those definitions in Minnesota Statutes, chapter 18A, shall apply.

Subp. 2. Commercial pesticide applicator. "Commercial pesticide applicator" means a person who is licensed under the act, other than structural pest control applicators or fumigators, to use or supervise the use of pesticides for hire.

Subp. 3. Fumigator. "Fumigator" means a person who has the necessary qualifications in the practical selection and application of fumigants with knowledge of their toxic effect on man and other living things and is so licensed by the commissioner.

Subp. 4. Journeyman structural pest control applicator. "Journeyman structural pest control applicator" means a person who has the necessary qualifications in the practical selection and application of pesticides with knowledge of their toxic effect on man and other living things, who is engaged as an employee of or is working under the direction of a master structural pest control applicator and is so licensed by the commissioner.

Subp. 5. Master structural pest control applicator. "Master structural pest control applicator" means a person who has the necessary qualifications to properly plan, determine, and supervise the selection and application of pesticides in structural pest control, who is thoroughly familiar with the toxic effects of pesticides on man and on other living things, who is familiar with the laws, rules, and regulations governing the same, and is so licensed by the commissioner, provided he/she shall not be permitted to engage in the planning and supervision of the selection and application of fumigants unless qualified as a fumigator.

Subp. 6. Noncommercial pesticide applicator. "Noncommercial pesticide applicator" means a person, including government officials, other than commercial applicator, structural pest control applicator, or private applicator who uses or supervises the use of restricted use pesticides on lands.

Subp. 7. Pest. "Pest" means, for the purpose of structural pest control, any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) or any other form of animal or plant life which has been declared by the commissioner to be a pest and which is found in, on, under, or within six feet of any structure; including all animals of the order Rodentia, starlings, sparrows, grackles, common pigeons, shrews, moles, bats, and all noxious weeds.

MINNESOTA RULES 1983

1505.0840 PLANT AND ANIMAL DISEASES: PEST CONTROL

584

Subp. 8. **Structural pest control applicator's apprentice, trainee, or assistant.** "Structural pest control applicator's apprentice, trainee, or assistant" means a person, other than a master or journeyman structural pest control applicator, who is engaged as an employee of a master structural pest control applicator, or working under the immediate and personal supervision of either a master or journeyman structural pest control applicator for not more than 120 days of employment, in learning and assisting in the selection and application of pesticide and has been registered with the commissioner to so engage in structural pest control activities.

Statutory Authority: *MS s 18A.43*

1505.0850 INCIDENTS.

Persons involved in, or responsible for, an incident involving a pesticide such as flood, fire, tornado, motor vehicle accident, poisoning, exposure, spills, or leaking container(s) likely to cause damage to humans or the environment shall immediately report such incident to the Minnesota Department of Agriculture, and provide information as may be requested by the commissioner. Notification of such incidents to the Department of Agriculture shall constitute compliance with Minnesota Statutes, section 115.061. The department shall be responsible for immediately notifying the Minnesota Pollution Control Agency of incidents which may cause pollution of waters of the state.

Statutory Authority: *MS s 18A.43*

1505.0860 RECORDS.

In addition to those record keeping requirements set forth in Minnesota Statutes, section 18A.28, subdivisions 2 and 3, licensed commercial applicators and licensed or registered structural pest control applicators shall keep a record of and report to the commissioner the locations of all treatments.

All noncommercial pesticide applicators as defined in the act shall submit to, and on forms provided by, the commissioner annually, but in no case later than January 30 following the year of license, a report which shall include true and accurate routine operational information on kinds, amounts, uses, dates, and places of application of restricted use pesticides; and shall keep and maintain such records necessary to produce such reports. Records shall be maintained for two years.

Statutory Authority: *MS s 18A.43*

1505.0870 SPECIAL LOCAL NEED.

"Special local need" shall mean a pest problem presently existing or likely to occur within the state which cannot be effectively controlled because: there is no pesticide registered by EPA for such use; or there is no EPA registered product which, under the conditions of use within the state, would be as safe and/or as efficacious for such use within the terms and conditions of EPA registration; or an appropriate EPA registered pesticide product is not available.

Statutory Authority: *MS s 18A.43*

1505.0880 APPLICATION FOR SPECIAL LOCAL NEED REGISTRATION.

Any person may make application for a special local need registration. Application shall be made in writing to the commissioner and shall include all information required in Minnesota Statutes 1976, section 18A.23 and Code of Federal Regulations, title 40, sections 162.150 to 162.158, subpart B.

Statutory Authority: *MS s 18A.43*

MINNESOTA RULES 1983

585

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.0940

1505.0890 SPECIAL LOCAL NEED REGISTRATION.

If the commissioner, based upon information in the application, deems it in the public interest, and deems that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects, he may issue a special local need registration in accordance with Minnesota Statutes 1976, sections 18A.22, subdivision 2, clauses (a) to (d), 18A.23, and Code of Federal Regulations, title 40, sections 162.150 to 162.158, subpart B.

Statutory Authority: *MS s 18A.43*

1505.0900 NOTICE AND NEWS RELEASE.

The commissioner shall, within 20 days of issuance of a special local need registration: publish a notice of the special local need registration in the State Register and the EQB Monitor; issue a news release with information stating that a special local need registration has been issued and stating the citizen's right to petition for a hearing to all legal newspapers of general circulation in the affected area and any other newspaper the commissioner deems appropriate.

Statutory Authority: *MS s 18A.43*

1505.0910 WRITTEN OBJECTIONS.

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, shall have 30 days from publication of notice in the State Register to file written objections with the commissioner regarding the issuance of the special local need registration. Upon receipt of said written objections, and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the commissioner shall order a hearing pursuant to Minnesota Statutes, chapter 14, for the purpose of revoking, amending, or upholding said registration.

Statutory Authority: *MS s 18A.43*

1505.0920 REVOCATION, SUSPENSION, OR AMENDMENT.

The commissioner shall revoke, suspend, or amend a special local need registration upon the determination after notice and hearing that, under the terms of the registration granted, the pesticide may cause unreasonable adverse effects on the environment, or the health, welfare, and safety of the public, or that the special local need no longer exists.

Statutory Authority: *MS s 18A.43*

1505.0930 SPECIAL LOCAL NEED REGISTRATION.

A special local need registration shall be valid for one calendar year or portion thereof unless revoked or suspended and may be reviewed annually by application in writing to the commissioner.

Statutory Authority: *MS s 18A.43*

1505.0940 CERTIFICATION REQUIREMENTS.

All Minnesota commercial, noncommercial, and structural pest control applicators shall be required to take and pass a proctored written examination or examinations related to the category classification selected by the applicant prior to certification and licensing. Upon passage of such an examination or examinations, the applicator will be certified for a period up to five years. Such examinations shall meet or exceed the requirements in Federal Insecticide, Fungicide, and Rodenticide Act and Code of Federal Regulations, title 40, sections 171.4 (b) and (c) and 171.6. Such examinations will be prepared and administered by the commissioner or his designee.

Statutory Authority: *MS s 18A.43*

1505.0950 RECERTIFICATION REQUIREMENTS.

Commercial and noncommercial applicators certified in accordance with part 1505.0940 may be recertified by: satisfactorily completing an approved training program during the certification period; or reexamination in accordance with procedures set forth in part 1505.0960. Participation at such a training program or reexamination will extend the applicator's certification for a period up to five years from the date of attendance or examination.

Structural pest control applicators may be recertified by participating in an approved training program or passing a written proctored examination annually for relicensing and recertification.

Statutory Authority: *MS s 18A.43*

1505.0960 REEXAMINATION PROCEDURES.

If any applicant fails to achieve a passing score on any examination, he/she shall be eligible to retake the examination after 15 days from the date of notification of failure of the first examination. If any applicant fails to achieve a passing score upon retaking an examination, he/she shall be eligible to retake the examination after 30 days from the date of notification of examination failure. A failing applicant may retake an examination no more than three times in one year. Upon submission to the commissioner in writing of specific reasons within 30 days from the date of notification of failure of third retaken examination, an appeal of the score may be made.

Statutory Authority: *MS s 18A.43*

1505.0970 CERTIFICATION ALTERNATIVES.

Upon written application, the commissioner may grant to an individual an alternative for the certification requirement and procedures set forth in parts 1505.0940 to 1505.0960, provided that:

A. there is good cause why the individual cannot comply with the provision of parts 1505.0940 to 1505.0960;

B. the requirements and procedures provided for in the alternative are equivalent to those set forth in parts 1505.0940 to 1505.0960;

C. when an examination is involved, the subject matter and difficulty of the examination is equivalent to the examination for which the alternative is granted;

D. the intent of the act and parts 1505.0940 to 1505.0960 is not violated; and

E. the environment of the public will not be adversely affected by the alternative requirements of procedures.

Under no circumstance shall certification be waived.

Statutory Authority: *MS s 18A.43*

1505.0980 PRIVATE APPLICATOR.

A private applicator shall be deemed certified when he/she has, within the past three years, completed one or more of the following state approved certification programs: a state approved home study; a state approved pesticide training session; a personal interview by the commissioner; or a written or oral examination; and he/she reads the label and follows all label directions for use and the precautions to protect the user and the environment from all restricted use pesticides he/she uses.

A private applicator or his/her agent shall sign a sales register when purchasing a restricted use pesticide from a licensed dealer attesting that the use and the precautions to protect the user and the environment and that the user has completed one or more of the state approved certification programs set forth

MINNESOTA RULES 1983

587

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.1030

in the first paragraph of this part within the past three years.

Statutory Authority: *MS s 18A.43*

1505.0990 MASTER STRUCTURAL PEST CONTROL APPLICATOR'S LICENSE.

An applicant for a master structural pest control applicators license shall take and pass a written proctored examination prepared and administered by the commissioner. Such examination shall determine whether the applicant has adequate training, experience, and technical knowledge to properly plan, determine, and supervise the selection and application of pesticides in structural pest control.

Statutory Authority: *MS s 18A.43*

1505.1000 JOURNEYMAN STRUCTURAL PEST CONTROL APPLICATOR LICENSE.

An applicant for a journeyman structural pest control applicator license shall take and pass a written proctored examination prepared and administered by the commissioner. Such examination shall determine whether the applicant has adequate training, experience, and working knowledge in the practical selection and application of pesticides in structural pest control and familiarity with toxic effect of pesticides on man and other living things.

Statutory Authority: *MS s 18A.43*

1505.1010 STRUCTURAL PEST CONTROL FUMIGATOR LICENSE.

An applicant for a structural pest control fumigator license shall, in addition to securing a master or journeyman license, take and pass a written proctored examination prepared and administered by the commissioner. Such examination shall determine whether the applicant has adequate training, experience, and working knowledge in the practical selection and application of fumigants and familiarity with the toxic effect of fumigants on man and other living things.

Statutory Authority: *MS s 18A.43*

1505.1020 RESTRICTED USE DEALER LICENSE.

An applicant for a restricted use dealer license shall take and pass a written proctored examination prepared and administered by the commissioner. Such examination shall determine whether the applicant has adequate training, experience, and working knowledge of pesticide types and characteristics, proper pesticide storage and disposal techniques, pesticide safety, and label and labeling comprehension.

Statutory Authority: *MS s 18A.43*

1505.1030 ALTERNATIVE FOR LICENSING REQUIREMENT.

Upon written application, the commissioner may grant to an individual an alternative for the licensing requirement and procedures set forth in parts 1505.0830 to 1505.1290, provided that:

A. there is good cause why the individual cannot comply with the provision of parts 1505.0830 to 1505.1290;

B. the requirements and procedures provided for in the alternative are equivalent to those set forth in parts 1505.0830 to 1505.1290;

C. when an examination is involved, the subject matter and difficulty of the examination is equivalent to the examination for which the alternative is granted;

D. the intent of the act and parts 1505.0830 to 1505.1290 is not violated; and

1505.1030 PLANT AND ANIMAL DISEASES: PEST CONTROL

588

E. the environment or the public will not be adversely affected by the alternative requirements or procedures.

Statutory Authority: *MS s 18A.43*

1505.1040 CONTINUING EDUCATION.

Every person licensed as a master or journeyman in structural pest control shall be required to attend annually at least one program of continuing education in the use of pesticides in structural pest control approved by the commissioner as a condition for renewal of the license under the act. Failure to attend such programs as required may be grounds for revocation, termination, suspension, or refusal to renew said license.

Statutory Authority: *MS s 18A.43*

1505.1050 ANNUAL LICENSE RENEWAL.

Licensed commercial and noncommercial applicators must renew their license annually. Qualification for license renewal can be accomplished by annual attendance at an approved continuing education program in the use of pesticides held prior to the expiration date of the present license or by successful completion of an examination prepared and administered by the commissioner. Failure to renew said license prior to the expiration date will require the applicant to revert to the status of a new applicant.

Statutory Authority: *MS s 18A.43*

1505.1060 ALTERNATIVE LICENSE RENEWAL PROCEDURES.

Upon written application, the commissioner may grant to an individual an alternative for the license renewal requirement and procedures set forth in parts 1505.1040 to 1505.1060, provided that:

A. there is good cause why the individual cannot comply with the provisions of parts 1505.1040 to 1505.1060;

B. the requirements and procedures provided for in the alternative are equivalent to those set forth in parts 1505.1040 to 1505.1060;

C. when an examination is involved, the subject matter and difficulty of the examination are equivalent to the examination for which the alternative is granted;

D. the intent of the act and parts 1505.1040 to 1505.1060 is not violated; and

E. the environment or the public will not be adversely affected by the alternative requirements or procedures.

Statutory Authority: *MS s 18A.43*

1505.1070 RESTRICTED USE PESTICIDES.

Restricted use pesticides shall be those so classified by the administrator of the EPA. Additionally, all pesticide uses classified as restricted use by any other federal or state agency statutorily authorized to do said classification, as well as the pesticides listed in parts 1505.1080 and 1505.1090, shall, for the purposes of the administration of parts 1505.0830 to 1505.1290, be classified as restricted use pesticides.

Statutory Authority: *MS s 18A.43*

1505.1080 USES AND PROCEDURES.

The following uses and procedures shall also be prescribed: the following inorganic arsenical compounds: sodium arsenite, sodium arsenate, arsenic trioxide, arsenic acid, and arsenic pentoxide shall not be used for weed control. Sodium fluoroacetate, compound 1080, fluoroacetamide (1081), and phosphorus paste, including any mixture, formulation, dilution, or combination thereof shall be restricted as follows:

MINNESOTA RULES 1983

589

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.1090

A. All the above listed pesticides shall be kept in the custody and used under the direct supervision of a master structural pest control applicator and when held in storage shall be kept in a locked cabinet or vault. Containers and other equipment for weighing, measuring, or mixing of such pesticides shall be labeled "POISON" and kept in a locked cabinet or vault.

B. The use of soft drink bottles or other food-type containers for storing products containing the pesticides listed above is prohibited.

C. The use of the above listed pesticides in dwellings is prohibited. Under certain conditions of rodent infestations, the commissioner may grant a special use permit for this compound for a stated date and dwelling location upon written application and finding that: the applicant has shown good cause why an exception would be reasonable, practical, and should be granted; the environment and the public will not be adversely affected; precaution will be taken to protect the environment and the public; and the intent of the act and parts 1505.0830 to 1505.1290 is not violated.

D. The use of the above listed pesticides shall be prohibited, except upon special written authorization from the commissioner. A follow-up report shall be required in all instances.

Statutory Authority: *MS s 18A.43*

1505.1090 USE OF LINDANE.

No person shall use Lindane in any pest control activity except as follows:

Pest	Crop	Dosage	Remarks, Limitations
Soil insects	Corn, beans, small grains, sugar beets, sunflowers	1 oz. per bu.	Seed treatment only
Stored-food pests		Follow label directions	For use by structural pest control operators
Mange mites	Swine	0.06% as spray or dip 1.0% dust	Do not treat before animals are 3 months old or sows within 2 weeks of farrowing; must be 30 days before slaughter, dips 60 days. If growth rates approach 200 lbs. in 150 days, another chemical should be used.
Centipedes, symphylids		Follow label directions	For commercial greenhouse and floriculture use only.
Thrips, fungus gnats, mealy bugs, sowbugs (pillbugs), spittle bugs		Follow label directions	For commercial greenhouse and floriculture use only.

Statutory Authority: *MS s 18A.43*

1505.1100 RESTRICTED USE PESTICIDES DISPLAY FOR SALE.

No person shall display for sale any restricted use pesticides in any public area of a store or other place to which the general public has access unless displayed by a sign or placard bearing the following statement in capital letters not less than two inches high: "RESTRICTED USE PESTICIDES -- USER MUST BE CERTIFIED."

Statutory Authority: *MS s 18A.43*

1505.1110 STORAGE, HANDLING, AND USE OF PESTICIDES.

No person shall use, store, display, or handle any pesticide or container thereof in any manner inconsistent with labeling or so as to endanger humans, damage agricultural products, food, livestock, wildlife, pollinating insects, or pollute the environment.

Statutory Authority: *MS s 18A.43*

1505.1120 MEANS OF CONTAINMENT.

All persons storing liquid pesticides in containers of a rated capacity of 500 gallons or more shall provide a means of containment of the amount of the rated storage in the event a leak or break should occur in the original storage unit in accordance with parts 7100.0010 to 7100.0090 of the Minnesota Pollution Control Agency. Storage must be provided with suitable lock up when unattended.

Statutory Authority: *MS s 18A.43*

1505.1130 EQUIPMENT FOR PROPER APPLICATION OF PESTICIDES.

All persons shall maintain all equipment in proper working order and shall use only that equipment capable of performing all functions necessary to insure proper application of pesticides.

Statutory Authority: *MS s 18A.43*

1505.1140 PESTICIDE HANDLING PROCEDURES.

All persons shall use necessary safe pesticide handling procedures and personal protective equipment, respirators, protective clothing, and medical monitoring procedures as appropriate to each situation to protect himself/herself and his/her employees.

Statutory Authority: *MS s 18A.43*

1505.1150 MEASURING EQUIPMENT.

All persons shall use only measuring equipment which is accurately calibrated to the smallest unit in which the pesticide is to be weighed and measured for application.

Statutory Authority: *MS s 18A.43*

1505.1160 UNIFORM MIXTURE OF PESTICIDE.

All persons shall maintain a uniform mixture of pesticide in equipment during application.

Statutory Authority: *MS s 18A.43*

1505.1170 APPLICATIONS OF PESTICIDES.

All persons shall make all applications of pesticides in good workmanlike manner utilizing a pattern that will give uniform distribution of pesticides without creating hazard to nontarget areas.

Statutory Authority: *MS s 18A.43*

MINNESOTA RULES 1983

591

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.1240

1505.1180 CLEAN EQUIPMENT.

All persons shall clean equipment used for pesticides so that no injurious residues from prior usage may cause injury to humans, agricultural crops, livestock, or the environment.

Statutory Authority: *MS s 18A.43*

1505.1190 LABELING PESTICIDE CONTAINERS.

All persons shall label all mixing and transportation pesticide containers, other than the actual applicative equipment, with the name of each active ingredient and use reasonable care to protect from obliteration the labels on all original pesticide containers until disposed of pursuant to the requirements of parts 1505.0830 to 1505.1290 and rules of the Minnesota Pollution Control Agency.

Statutory Authority: *MS s 18A.43*

1505.1200 AIRCRAFT USED IN APPLICATION OF PESTICIDES.

All persons using aircraft in the application of pesticides shall use and operate only aircraft that have equipment which will give uniform coverage to the area to which the pesticide is applied. All such aircraft shall also be equipped with a positive shutoff which shall prevent the leaking or dissemination of said pesticide on any nontarget areas over which flight is made.

Statutory Authority: *MS s 18A.43*

1505.1210 PESTICIDE APPLICATOR COMPANY LICENSE OR REGISTRATION CERTIFICATE.

The license or registration certificate issued by the commissioner to a pesticide applicator company shall be prominently displayed to the public in their place of business.

Statutory Authority: *MS s 18A.43*

1505.1220 MEANS OF IDENTIFICATION.

All individuals licensed by the commissioner shall have such license, card, or document as issued by the commissioner to present upon demand as a means of identification when engaged in pesticide application activities.

Statutory Authority: *MS s 18A.43*

1505.1230 ENFORCEMENT.

The commissioner, after notice and hearing may deny, suspend, revoke, or refuse to renew a registration, license, or certificate when a person is in violation of Minnesota Statutes, sections 18A.21 to 18A.48, or rules promulgated thereunder.

No person shall knowingly falsify all or any part of an application for registration, an application for license, any records required to be maintained, any reports filed or any other information submitted to the commissioner pursuant to Minnesota Statutes, sections 18A.21 to 18A.48, or rules promulgated thereunder.

Statutory Authority: *MS s 18A.43*

1505.1240 FINANCIAL RESPONSIBILITY.

Commercial pesticide applicators and structural pest control applicators. Applicants for commercial pesticide applicator or structural pest control applicator licenses or renewals shall furnish evidence of financial responsibility acceptable to the commissioner prior to the issuance of such license. This requirement may be satisfied by:

A. a certificate of net asset statement issued by a financial institution authorized to do business in the state by the Minnesota Department of

MINNESOTA RULES 1983

1505.1240 PLANT AND ANIMAL DISEASES: PEST CONTROL

592

Commerce, showing net assets available to satisfy judgments equal to or greater than \$50,000;

B. a bond issued by a bondsman authorized to do business in the state by the Minnesota Department of Commerce or liability insurance issued by a company authorized to do business in the state by the Minnesota Department of Commerce for a minimum set forth in parts 1505.1250 and 1505.1260; or

C. a combination of items A and B.

Statutory Authority: *MS s 18A.43*

1505.1250 LIMITS OF LIABILITY FOR COMMERCIAL PESTICIDE APPLICATORS.

Subpart 1. **Limits of liability.** Limits of liability:

A. \$50,000 for bodily injury or death, each person.

B. \$50,000 for bodily injury or death, each occurrence.

C. \$25,000 for property damage, each occurrence.

Subp. 2. **Liability insurance policy or surety bond.** The commissioner may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding \$500 for aerial and ground commercial applicators.

Subp. 3. **Excess liability limits.** The commissioner may, when deemed in the public interest and the intent of the act, require limits of liability in an amount in excess of those set forth in subpart 1 for an individual applicant reasonably commensurate with the applicant's possible liability exposure.

Statutory Authority: *MS s 18A.43*

1505.1260 LIMITS OF LIABILITY FOR STRUCTURAL PEST CONTROL APPLICATORS.

Subpart 1. **Limits of liability.** Limits of liability:

A. \$100,000 for bodily injury.

B. \$200,000 for bodily injury or death of two or more, each occurrence.

C. \$10,000 for property damage, each occurrence.

Subp. 2. **Liability insurance policy or surety bond.** The commissioner may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding \$500.

Subp. 3. **Excess liability limits.** The commissioner may, when deemed in the public interest and intent of the act, require limits of liability in an amount in excess of those set forth in subpart 1 for an individual applicant reasonably commensurate with the applicant's possible liability exposure.

Statutory Authority: *MS s 18A.43*

1505.1270 ACTIVITIES REQUIRING FINANCIAL RESPONSIBILITY.

Such financial responsibility shall be clearly conditioned to cover liability resulting from the handling, storage, disposal, application, use, or misuse of any pesticide.

Statutory Authority: *MS s 18A.43*

1505.1280 RECIPROCAL AGREEMENT.

Reciprocal agreements shall apply to all nonresidents licensed and certified to apply pesticides so long as such license and certification has not been cancelled or suspended for cause by the jurisdiction issuing the license and certification on which issuance of the reciprocal license and certification is based. In all cases, when a license and certification has been suspended or revoked by either jurisdiction in the agreement, the appropriate official of the reciprocating jurisdiction shall be notified detailing the reasons for such suspension or

MINNESOTA RULES 1983

593

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.1320

revocation.

Statutory Authority: *MS s 18A.43*

1505.1290 RECIPROCAL AGREEMENT BETWEEN STATES.

The commissioner is authorized to enter into reciprocal agreements approved by the attorney general for form and legality with any other state which has a similar state plan for certification of pesticide applicators. Under such agreement, the designated person of the state party to the reciprocal agreement is granted full authority, including reciprocal recognition of licensing and recertification standards, training and testing procedures, and related matters in all states participating in such agreements. The commissioner reserves the right to test any applicant from another state who is seeking certification in Minnesota.

Statutory Authority: *MS s 18A.43*

DISPOSAL OF REFUSE FROM TRANSPORT INVOLVED IN FOREIGN COMMERCE

1505.1300 AUTHORITY.

It is the purpose of parts 1505.1300 to 1505.1450 to carry out and enforce the provisions of the Plant Pest Act, Minnesota Statutes, sections 18.44 to 18.61. Parts 1505.1300 to 1505.1450 relate to the disposal and handling of refuse and dunnage of foreign origin at Minnesota ports of entry in a prescribed manner to prevent the entry and dissemination of plant pests.

Statutory Authority: *MS s 18.48 subd 2*

1505.1310 DEFINITIONS.

Subpart 1. **Applicability.** For purposes of parts 1505.1300 to 1505.1450, the following definitions and those in Minnesota Statutes, section 18.46 shall apply.

Subp. 2. **Approved sewage system.** "Approved sewage system" means any sewage system approved by the commissioner upon his determination that the system is designed and operated in such a manner as to prevent the dissemination of plant pests.

Subp. 3. **Dunnage.** "Dunnage" means structural wood products in any form used to secure cargo in any manner. Standards and criteria for handling and disposing of dunnage are contained in parts 1505.1350 to 1505.1450.

Subp. 4. **Refuse.** "Refuse" means all material derived in whole or in part from the fruits, vegetables, meats, or other plant or animal (including poultry) material which is carried aboard any vehicle involved in foreign commerce. Standards and criteria for handling and disposing of refuse are contained in parts 1505.1350 to 1505.1450.

Subp. 5. **Transport involved in foreign commerce.** "Transport involved in foreign commerce" means any ship or aircraft arriving in Minnesota from any point outside the borders of the United States and Canada.

Subp. 6. **Vehicle.** "Vehicle" means any conveyance used to transport refuse and/or dunnage from any transport involved in foreign commerce in Minnesota.

Subp. 7. **Vermin.** "Vermin" means any animal life, except plant pests as defined in Minnesota Statutes, section 18.46, subdivision 13.

Statutory Authority: *MS s 18.48 subd 2*

1505.1320 REGISTRATION.

Every person who engages in the business of removing or disposing of refuse and/or dunnage from transport involved in foreign commerce shall register annually with the commissioner, and shall furnish such information as may be

required to demonstrate compliance with the certification requirements and operating standards set forth in these rules.

Statutory Authority: *MS s 18.48 subd 2*

1505.1330 ANNUAL INSPECTION.

An annual inspection shall be made of equipment utilized in the removal, transportation, and disposal of refuse and/or dunnage by the commissioner before certificate is granted. If all the requirements are satisfied, a certificate of approval shall be issued by the commissioner. This certificate must be retained by the certificate holder.

Statutory Authority: *MS s 18.48 subd 2*

1505.1340 REVOCATION OF CERTIFICATE.

If at any time the requirements of these rules are not met, after notice and hearing pursuant to Minnesota Statutes, chapter 14, the certificate shall be revoked. The commissioner may, when it is deemed upon proper investigation and consultation that the continued operation of certificate holder poses an imminent threat of plant pest dissemination, suspend the certificate until the commissioner has issued an order on the certificate revocation.

Statutory Authority: *MS s 18.48 subd 2*

1505.1350 REFUSE HANDLING.

All transports involved in foreign commerce shall immediately upon arrival have all refuse removed and disposed of in a manner pursuant to these rules. No refuse shall accumulate for more than three days on board such transports involved in foreign commerce unless authorized in writing to do so by the commissioner because the commissioner determines that no method for proper disposal is available pursuant to part 1505.1440. All refuse shall be removed from transports involved in foreign commerce in a manner pursuant to these rules immediately before departure from the state.

Statutory Authority: *MS s 18.48 subd 2*

1505.1360 RETENTION OF REFUSE.

Until removed, refuse shall be retained in tight containers with vermin proof covers.

Statutory Authority: *MS s 18.48 subd 2*

1505.1370 DELIVERY OF REFUSE.

Refuse shall be delivered at least daily to the disposal facility. In no case shall refuse be held in a vehicle for longer than 12 hours or overnight.

Statutory Authority: *MS s 18.48 subd 2*

1505.1380 REDUCTION TO ASH OR STERILIZATION.

Refuse removed from transports involved in foreign commerce shall not be removed from the confines of the state's borders until the refuse has been reduced to ash or sterilized in accordance with these rules.

Statutory Authority: *MS s 18.48 subd 2*

1505.1390 SPILLAGE.

Refuse shall be handled at all times in a manner which will prevent spillage. Any refuse spilled shall be picked up and placed within the vehicle and/or disposal facility immediately. The site of the spillage shall be cleaned so as to assure that the site is pest free.

Statutory Authority: *MS s 18.48 subd 2*

MINNESOTA RULES 1983

595

PLANT AND ANIMAL DISEASES: PEST CONTROL 1505.1450

1505.1400 CONTAINERS.

Containers used for unloading and transporting refuse from transport involved in foreign commerce shall be leakproof and shall have adequate vermin proof covers.

Statutory Authority: *MS s 18.48 subd 2*

1505.1410 VEHICLES.

Vehicles used for transporting refuse shall be leakproof and the refuse shall be completely covered with a tarpaulin or other covering tightly secured when it is used to prevent spillage and prevent vermin entry. Covering is not required when the refuse is contained in tight containers with vermin proof covers or in closed plastic bags so as to contain the materials in the vehicle until ultimate disposal.

Statutory Authority: *MS s 18.48 subd 2*

1505.1420 APPROVED REFUSE DISPOSAL.

The following methods shall be used for refuse disposal: incineration, providing the incinerator is capable of reducing its contents completely to ash in a 24-hour period; no refuse residue shall be removed from an incinerator for disposal unless it has been reduced to ash or slag; sterilization by live steam, cooking, or boiling at a temperature of no less than 212 degrees Fahrenheit (100 degrees Celsius) for 30 minutes; grinding into an approved sewage system; if the above methods are not available or practical, any other manner sufficient to eliminate all pest risks.

Statutory Authority: *MS s 18.48 subd 2*

1505.1430 DUNNAGE DISPOSAL.

Subpart 1. **No pest risk.** If dunnage involved in foreign commerce arriving within the borders of Minnesota is inspected and found apparently free from plant pests, it shall be released by the commissioner and need not be disposed of pursuant to these rules.

Subp. 2. **Pest risk.** If evidence of plant pests is found, all of the dunnage material involved shall be treated in a manner prescribed; complete incineration or open burning in compliance with Minnesota air pollution control rules; fumigation by chemicals and treatment schedules sufficient to eliminate the pest risk; spraying or dusting with proper chemical concentrations sufficient to eliminate the pest risk and in conformance with parts 1505.0830 to 1505.1290; steam sterilization in a manner sufficient to eliminate the pest risk.

Statutory Authority: *MS s 18.48 subd 2*

1505.1440 ALTERNATIVE MEANS OF DISPOSAL.

If the preceding methods of disposal are not available, the refuse and/or dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purpose of these rules.

Statutory Authority: *MS s 18.48 subd 2*

1505.1450 FINANCIAL RESPONSIBILITY FOR TREATMENT OF DUNNAGE OR REFUSE.

Any financial responsibility to accomplish any treatment of dunnage and/or refuse shall belong to those responsible for delivering the dunnage and/or refuse to Minnesota.

Statutory Authority: *MS s 18.48 subd 2*