CHAPTER 1505

DEPARTMENT OF AGRICULTURE

PEST AND DISEASE CONTROL

NOTE: Parts 1505.3010 to 1505.3150 were originally numbered as parts 1505.2010 to 1505.2150, but due to a duplication of rule numbers, the rules pertaining to Bulk Pesticide Storage as adopted at 14 State Register, page 161 on July 24, 1989, were renumbered

SHADE TREE DISEASE CONTROL 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 the commissioner's 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.

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*

History: *17 SR 1279*

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*

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*

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*

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. employee 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*

History: *17 SR 1279*

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*

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*

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 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*

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. notorization 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.

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*

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 until the commissioner receives certified evidence of the actual cost of the equipment or site.

Statutory Authority: *MS s 18.023 subd 2*

History: *17 SR 1279*

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 an adequate work force 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*

History: *17 SR 1279*

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;

(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 RELATED TO POTATOES

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;

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*

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*

1505.0690 [Repealed, L 1987 c 109 s 13]

1505.0700 [Repealed, L 1987 c 109 s 13]

1505.0710 [Repealed, L 1987 c 109 s 13]

1505.0720 [Repealed, L 1987 c 109 s 13]

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	Convolvulus arvensis
Hemp	Cannabis sativa
Poison Ivy	Rhus radicans
Spurge, leafy	Euphorbia esula
Sowthistle, perennial	Sonchus arvensis
Thistle, bull	Cirsium vulgare
Thistle, Canada	Cirsium arvense
Thistle, musk	Carduus nutans
Thistle, plumeless	Carduus acanthoides

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

COUNTY AGRICULTURAL INSPECTOR QUALIFICATION

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 available 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*

History: *17 SR 1279*

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 un-

damaged 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*

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 18B.39*

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 humans 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 humans 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 humans 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 purposes 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 humans 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.

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 18B.39*

History: *17 SR 1279*

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 18B.39*

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 pesti-

cides; and shall keep and maintain such records necessary to produce such reports. Records shall be maintained for two years.

Statutory Authority: *MS s 18B.39*

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 18B.39*

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 18B.39*

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, the commissioner 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 18B.39*

History: *17 SR 1279*

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 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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.

Statutory Authority: *MS s 18B.39*

History: *17 SR 1279*

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 18B.39*

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 18B.39*

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 18B.39*

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

Statutory Authority: *MS s 18B.39*

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 18B.39*

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 humans and other living things.

Statutory Authority: *MS s 18B.39*

History: *17 SR 1279*

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 humans and other living things.

Statutory Authority: *MS s 18B.39*

History: *17 SR 1279*

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 18B.39*

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

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

Statutory Authority: *MS s 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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 part 1505.1080, shall, for the purposes of the administration of parts 1505.0830 to 1505.1290, be classified as restricted use pesticides.

Statutory Authority: *MS s 18B.39*

History: *9 SR 989*

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:

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 18B.39*

1505.1090 [Repealed, 9 SR 989]

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 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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 themselves and their employees.

Statutory Authority: *MS s 18B.39*

History: *17 SR 1279*

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 18B.39*

1505.1160 UNIFORM MIXTURE OF PESTICIDE.

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

Statutory Authority: *MS s 18B.39*

1505.1170 APPLICATIONS OF PESTICIDES.

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

Statutory Authority: *MS s 18B.39*

History: *17 SR 1279*

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 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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 18B.39*

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

B. a bond issued by a bonding company 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 18B.39*

History: *17 SR 1279*

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 18B.39*

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 18B.39*

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 18B.39*

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 canceled 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 revocation.

Statutory Authority: *MS s 18B.39*

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 18B.39*

PLANT PEST ACT; DISPOSAL OF IMPORTED PLANT REFUSE

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 determining 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*

History: *17 SR 1279*

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*

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*

PESTICIDE CHEMIGATION SAFETY

1505.2000 DEFINITIONS.

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

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

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

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

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

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

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit that connects directly to a source of ground or

surface water, through which a mixture of water and pesticides are drawn and applied to land, crops, or plants. The term does not include a hand held, hose end sprayer or other similar device that is constructed so that an interruption of water flow automatically prevents or precludes backflow to the water source.

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

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

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

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

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

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

B. calibrating injection equipment;

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

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

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

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

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

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2000 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711

1505.2010 REGISTRATION.

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2010 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711

1505.2020 ANTI POLLUTION DEVICES AND PROCEDURES.

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

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

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

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

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

Subp. 3. **Storage; supply; containment.** Pesticide supply tanks and pesticide storage sites used for more than three consecutive months in conjunction with a chemigation system must be provided with a means of containment when located within 150 feet of the irrigation water supply, or well head in order to prevent unreasonable adverse effects on the environment in the event of a spill or leak. Containment capacity must be 125 percent of the supply container. The containment unit must be compatible with the stored pesticide and must be designed to withstand a full hydrostatic head of discharged liquid. The containment unit may only be constructed of commissioner approved synthetic materials, stainless steel, reinforced concrete, or reinforced masonry. The containment unit may be portable.

Subp. 4. **Anti pollution devices; valves.** Anti pollution devices and valves for irrigation systems used for chemigation purposes must be designed and built of materials suitable for those purposes, including compatibility, and must be kept functional during chemigation application. The devices must comply with items A to G, and may be installed as portable

devices for use on other registered chemigation or irrigation systems. Portable devices are not allowed for use for systems connected to public water supply systems.

A. A reduced pressure zone backflow preventer or two check valves in series must be provided for systems not connected to a public water supply. The device must be located in the irrigation system supply pipeline between the irrigation system supply pump and the point of injection of the pesticide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2020 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2030 RECORDS AND REPORTS.

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2030 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2040 RESPONSIBILITY.

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2040 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2050 COMMISSIONER'S RESPONSIBILITY.

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2050 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2060 INSPECTION, INSTALLATION, MAINTENANCE, AND MODIFICATION.

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

A. inspect equipment subject to parts 1505.2000 to 1505.2070;

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

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

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

E. observe the use and application of pesticides.

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

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

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2060 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2070 PROHIBITED ACTS.

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

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2070 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

1505.2080 EFFECTIVE DATE.

Parts 1505.2000 to 1505.2070, as adopted at 13 State Register, page 494, on August 29, 1988, become effective January 1, 1989.

Statutory Authority: *MS s 18B.08*

History: *13 SR 494*

NOTE: Part 1505.2080 is repealed effective December 31, 1993. See the Notice of Adoption published at 17 SR 711.

AGRICULTURAL CHEMICAL CHEMIGATION SAFETY

1505.2100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and Minnesota Statutes, sections 18B.01 and 18C.005, apply to parts 1505.2100 to 1505.2800.

Subp. 2. **Agricultural chemical.** "Agricultural chemical" means a pesticide as defined in Minnesota Statutes, chapter 18B, or a fertilizer, plant amendment, or soil amendment as defined in Minnesota Statutes, chapter 18C.

Subp. 3. **Antipollution device.** "Antipollution device" means equipment or a device used to prevent the backflow or backsiphonage of agricultural chemicals or mixtures of agricultural chemicals and water to the groundwater or surface water from the application of agricultural chemicals through irrigation systems and includes, but is not limited to, a reduced pressure zone backflow preventer, single or double irrigation system supply check valve, air gap, vacuum relief valve, automatic low pressure drain, injection line check valve, system interlock, low pressure shutdown device, and supply tank safeguard.

Subp. 4. **Automatic low pressure drain valve.** "Automatic low pressure drain valve" means a self–activating device designed and constructed to effectively and immediately drain that portion of an irrigation pipeline or conduit or check valve body whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down.

Subp. 5. **Calibration.** "Calibration" means the use of devices and procedures utilized and employed with a chemigation system to determine the rate of agricultural chemical application.

Subp. 6. **Check valve.** "Check valve" means a device designed and constructed to effectively provide a positive, absolute closure of an irrigation pipeline or conduit or an agricultural chemical injection line that positively prevents the flow of a mixture of agricultural chemicals or agricultural chemicals and water to an irrigation pipeline, water supply, injection device, or supply tank when operation of the irrigation system pumping plant or agricultural chemical injection unit fails or is shut down.

Subp. 7. **Chemigation system.** "Chemigation system" means a device or combination of devices having a hose, pipe, or other conduit directly connected to a water supply through which a mixture of agricultural chemicals, or agricultural chemicals and water, are injected or drawn into and applied to land, crops, or plants.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture or an agent authorized by the commissioner.

Subp. 9. **Department.** "Department" means the Department of Agriculture.

Subp. 10. **Fertilizer chemigation.** "Fertilizer chemigation"means a process for applying fertilizers to land or crops including agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subp. 11. **Incident.** "Incident" means a flood, fire, tornado, transportation accident, storage container rupture, leak, spill, emission discharge, escape, disposal, or other event that releases or immediately threatens to release an agricultural chemical accidentally or otherwise into the environment, and may cause unreasonable adverse effect on the environment. Incident does not include the legal use of an agricultural chemical.

Subp. 12. **Injection unit.** "Injection unit" means an agricultural chemical injection metering pump, venturi (vacuum), pressure differential, or other metering device interlocked with the irrigation system that withdraws an agricultural chemical from a supply tank and injects the agricultural chemical into the irrigation system during a chemigation operation.

Subp. 13. **Interlock.** "Interlock" means the interconnection between an irrigation pump and agricultural chemical injection unit that causes injection system shutdown.

Subp. 14. **Irrigation.** "Irrigation" means the act of supplying water for agricultural and horticultural purposes to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water.

Subp. 15. **Low pressure shutdown device.** "Low pressure shutdown device" means a device interlocked with the irrigation system that will shut down the irrigation system when the water pressure decreases to the point where an incident may occur.

Subp. 16. **Permitted–by–rule.** "Permitted–by–rule" means an applicant is considered to have a permit under part 1505.2200 to construct and operate a chemigation system if the applicant complies with parts 1505.2100 to 1505.2800, including the submission of a permit application and the required fee under part 1505.2200.

Subp. 17. **Pesticide chemigation.** "Pesticide chemigation" means the process of applying pesticides to land or crops including, but not limited to, agricultural, nursery, turf, golf course, or greenhouse sites in or with irrigation water during the irrigation process.

Subp. 18. **Public water supply.** "Public water supply" has the meaning given in part 4720.0100.

Subp. 19. **Reduced pressure zone backflow preventer.** "Reduced pressure zone backflow preventer" means a device designed to prevent backflow consisting of two spring loaded check valves with an intermediate reduced pressure zone that drains to the atmosphere by a relief valve, with a reduced pressure maintained in the intermediate zone by means of a pressure differential valve.

Subp. 20. **Substantially altering.** "Substantially altering"means modifying a chemigation system by changing or adding injection units, supply tanks, safeguards, or antipollution devices described in the applicants most recently submitted permit application. Routine maintenance does not constitute a substantial alteration.

Subp. 21. **Vacuum relief valve.** "Vacuum relief valve" means a device effectively designed and built to automatically relieve or break vacuum in an irrigation pipeline or conduit caused by system failure or shut down.

Subp. 22. **Water supply.** "Water supply" means a source of water that is connected directly to an irrigation system such as a single well, group of wells, dug pit, lake, river, or stream.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2200 APPLICATION; PERMIT; FEE AND APPLICATION RENEWAL; ALTERATION; INSPECTION..

Subpart 1. **Permit required.** A person shall comply with parts 1505.2100 to 1505.2800 before applying agricultural chemicals through an irrigation system. An applicant is considered to be permitted–by–rule if the applicant is in compliance with parts 1505.2100 to 1505.2800.

Subp. 2. **Initial fee; application renewal.** The application fee for an initial chemigation system permit established by Minnesota Statutes, section 18B.08, subdivision 4, or section 18C.205, subdivision 3, must be submitted with the initial chemigation system permit application. An updated chemigation system permit application must be submitted to the commissioner on forms provided by the commissioner every two years from the date of the applicant's initial submission of their permit application. No additional fee is required.

Subp. 3. **Permits previously granted under repealed parts 1505.2000 to 1505.2080.** An applicant previously granted a permit under repealed parts 1505.2000 to 1505.2080 shall submit an updated permit application every two years from the effective date of parts 1505.2100 to 1505.2800. No additional fee is required.

Subp. 4. **Application.** An applicant for a chemigation system permit shall apply on forms supplied by the commissioner. The application must include, at a minimum:

A. the name, address, and telephone number of the applicant to whom a permit is to be issued;

B. the number and location, by legal description, of well heads, surface water supply withdrawal points, or the public water supply that will be used in the chemigation process;

C. the estimated amounts and types of agricultural chemicals to be applied through the irrigation system;

D. diagrams or photographs of the irrigation system detailing the required antipollution devices;

E. diagrams, drawings, and calculations detailing the required safeguards of agricultural chemical storage containers at the chemigation site, if applicable;

F. the number of the applicant's department of natural resources water appropriation permit, if applicable;

G. the applicant's or applicant's agent's private applicator certification or noncommercial certification number, if applicable; and

H. a description of the chemigation system inspection procedures and time frames for inspection.

Subp. 5. **Chemigation system alteration.** Before substantially altering a chemigation system, an applicant shall submit a permit application form to the commissioner describing the changes to be made to the chemigation system. No additional fee is required.

An applicant is considered to be permitted–by–rule for the substantial alteration if the applicant complies with parts 1505.2100 to 1505.2800.

Subp. 6. **Inspection.** Chemigation systems are subject to inspection by the commissioner or the commissioner's agent under Minnesota Statutes, section 18D.201.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2300 AGRICULTURAL CHEMICAL APPLICATION; SETBACKS AND SAFEGUARDING; ANTIPOLLUTION DEVICES; PURGING; POSTING.

Subpart 1. **Application of agricultural chemicals through irrigation systems.**

A. A pesticide may be applied through an irrigation system only if the pesticide is labeled for the method and device specified for application, the crop, and application site.

B. Fertilizers may be applied through irrigation systems.

Subp. 2. **Setbacks and safeguarding.**

A. Agricultural chemical storage areas and supply tanks, the end of the discharge hose for check valve drain lines, and agricultural chemical mixing and loading areas must not be located closer to a water supply well than the distance specified in chapter 4725. If not specified in chapter 4725, the minimum setback distance for agricultural chemical storage areas and supply tanks, the end of the discharge hose for check valve drain lines, and mixing and loading areas from the water supply must be the same as the minimum setback distance specified in chapter 4725 for agricultural chemical supply tanks and agricultural chemical mixing and loading areas used for chemigation.

B. An agricultural chemical supply tank must be safeguarded if the tank storage meets at least two of the following conditions:

(1) the supply tank has a rated capacity of more than 1,500 United States gallons;

(2) the supply tank is located within 100 feet of a water supply; or

(3) the supply tank is located at a chemigation site for more than 30 consecutive days.

C. If required, agricultural chemical supply tanks must be confined to a safeguard that is adequate in the event of a release to prevent movement of the agricultural chemical to the water supply.

The safeguard must consist of a wall and liner or prefabricated basin as specified in item E.

D. The capacity of the safeguard for an agricultural chemical supply tank must be at least equal to the sum of all of the following:

(1) the volume of the largest agricultural chemical supply tank or other container within the safeguard;

(2) 25 percent of the capacity of the largest agricultural chemical supply tank or other container within the safeguard for an unroofed safeguard, or ten percent of the capacity of the largest agricultural chemical supply tank or other container within the safeguard covered by a roof; and

(3) the total volume of released liquid that would be displaced by the portions of all other containers with the safeguard to the height of the safeguard wall and all other fixtures and materials located within the safeguard.

E. The walls and base of a safeguard may be made of ferrous metal, reinforced concrete, solid reinforced masonry, synthetic lined earth, or prefabricated ferrous metal or synthetic materials. The safeguard must be designed according to standard engineering practices to be leakproof and to withstand a full hydrostatic head of released liquid to the height of the safeguard.

(1) Masonry walls must be reinforced, capped with concrete, and parged on the interior. The joint between any masonry wall and any floor or liner must use internal waterstops or similar materials to make the joint leakproof. Control joints protected with waterstops or similar materials must be used for the base. The interior base and walls must be coated with a material resistant to agricultural chemicals. Cracks and seams must be sealed.

(2) The joints between a reinforced concrete wall and any floor or liner must use internal waterstops or similar materials to make the joint leakproof. Control joints protected with waterstops or similar materials must be used for the base. The interior base and walls must be coated with a material resistant to agricultural chemicals. Cracks and seams must be sealed.

(3) Synthetic liners must have a minimum thickness of 30 mils (0.8 millimeters), be chemically compatible with the materials being stored within the safeguard, photo

resistant, and puncture resistant. The earthen base of a synthetic liner must be free of large rocks, angular stones, sticks, or other materials that may puncture the liner.

(4) A prefabricated safeguard must be composed of rigid walls and a base of ferrous metal or synthetic materials that are resistant to corrosion, puncture, or cracking. Materials used for the safeguard must be chemically compatible with the materials being stored within the safeguard. Synthetic materials must be photo– and puncture–resistant.

(5) The base and walls of a safeguard may not contain a drain or similar opening.

Subp. 3. **Antipollution devices.** Chemigation systems must be filled with antipollution devices as detailed in this subpart. The devices must be designed and built of materials suitable for those purposes, including agricultural chemical compatibility, and must be kept functional during chemigation. Antipollution devices may be installed as portable devices for use on other permitted chemigation systems, except that portable devices are not allowed for use on systems connected to the public water supply.

A. A mainline irrigation system supply reduced pressure zone backflow preventer or two check valves in a series must be provided for systems directly connected to a water supply, and must be located in the irrigation system supply pipeline between the irrigation system water supply pump or source of irrigation water and the point of injection of the agricultural chemical.

The following additional conditions apply:

(1) Mainline check valves:

(a) a single mainline check valve may be used for the application of fertilizer;

(b) mainline check valve backflow prevention devices must meet the design and equipment standards in item B;

(c) mainline check valve backflow prevention devices must be tested and certified by an independent testing laboratory to meet the performance standards in item B; and

(d) mainline check valves must be stamped, tagged, or otherwise marked to indicate working pressure, flow rate, and direction, and date, month, and year of manufacture.

(2) Reduced pressure zone backflow preventers:

(a) a reduced pressure zone backflow preventer must be used when the source of irrigation water is potable water; and

(b) a reduced pressure zone backflow preventer must be approved by the Department of Health under chapter 4715, and applicants must install and maintain a reduced pressure zone backflow preventer under chapter 4715.

The commissioner shall keep and provide to interested persons a list of Department of Health approved reduced pressure zone backflow preventers and mainline check valves certified by independent testing laboratories. Mainline check valves approved by the commissioner under repealed parts 1505.2000 to 1505.2080 may continue to be used after the effective date of this part if the mainline check valves comply with item B and the department has been notified of any changes in design or materials.

B. If a single irrigation system supply check valve or two irrigation system supply check valves in a series are used, each check valve must be equipped with an inspection port or similar device and be immediately preceded in the irrigation system by a vacuum relief valve and automatic low pressure drain valve.

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

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

The automatic low pressure drain must be provided on the bottom of the horizontal irrigation pipeline on the supply side of the check valve. The device must have an internal and

external orifice size of at least a three–quarter inch diameter. If two check valves in a series are required to be used, the check valve located in line nearest to the pivot or irrigation system must meet one of the following specifications:

(1) the check valve must use a spring–loaded, automatic, low pressure drain or an automatic low pressure drain with similar operating characteristics; or

(2) the check valve must use an automatic low pressure drain that will drain the supply side of the body of the check valve within three minutes of system shutdown.

The drain may not extend beyond the inside surface of the bottom of the irrigation pipeline or conduit and must be at least two inches above grade. The device must be positioned, or the location of the grade adjusted, so that liquid will discharge away from a water supply when draining occurs.

An irrigation system supply check valve must be of heavy duty construction with all materials, including internal parts, resistant to corrosion or protected to resist corrosion. It must be rated a minimum of 150 pounds per square inch working pressure and be quick closing by spring action and tight sealing so that no leakage occurs at joints or the valve seat when subjected to an internal hydrostatic pressure test of at least 300 pounds per square inch for one minute. There must be no leakage at joints or the valve seat when the check valve is subjected to an internal hydrostatic pressure equivalent to the head of a column of water five feet high, retained within the downstream portion of the valve body for 16 hours.

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

C. An injection line check valve that is resistant to agricultural chemicals must be provided on the agricultural chemical injection line between the point of agricultural chemical injection into the irrigation system and the agricultural chemical injection unit, pump, or solution tank, and be functional to prevent the flow of liquid from the irrigation line to the agricultural chemical injection device and the flow of liquid or material from the agricultural chemical supply tank to the irrigation line.

D. An interlock, such as electrical, pressure, mechanical, or water motor, must be provided between the irrigation system or water pump and the agricultural chemical injection unit. If interruption of the irrigation water flow occurs, the interlock must, at a minimum, cause the shutdown of the agricultural chemical injection unit.

E. A low pressure shutdown device must be used with the irrigation system that will shut down the irrigation system if the water pressure decreases to the point when an incident may occur.

Subp. 4. **Purging system.** The irrigation system must be operated as necessary on each and every occasion after an agricultural chemical injection is terminated to allow for a complete purging of the agricultural chemical from the system.

Subp. 5. **Posting of sites.** Sites being treated with pesticides through chemigation systems must be posted with signs during pesticide treatment. The posting of signs is governed by items A to D.

A. Signs must be in compliance with subitems (1) to (3).

(1) Signs must be at least eight and one–half inches by 11 inches, highly visible, with contrasting colors for letters and background.

(2) Letters must be at least three–eighths of an inch tall.

(3) Signs must contain at least:

(a) the signal word from the pesticide label;

(b) the name of the pesticide;

(c) the date of treatment; and

(d) the reentry date as described on the pesticide label.

B. Signs must be conspicuously placed at usual points of entry for all sites and at property corners for nongreenhouse sites that are immediately adjacent to public transportation routes or other public or private nonagricultural property, except that signs must be placed no greater than 100 feet apart for a field chemigation site that is located immediately adjacent to a public area such as a park, school, or residential area.

C. Signs must be removed after the reentry date expires unless signs are of a more permanent nature, such as laminated signs, in which case information must be updated as necessary.

D. If more restrictive instructions for posting exist on the label of the pesticide being used in chemigation, the label instructions must be totally followed.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2400 RECORDS AND REPORTS.

Pesticide chemigation system application records and fertilizer chemigation system mix and application records must be kept by the chemigation system applicant for five years from the date of application. Records detailing dates of chemigation system inspection, names of persons performing the inspection, and condition of the chemigation unit must be kept on forms provided by the commissioner. System inspection and equipment maintenance records must be retained by the chemigation system permit holder for five years.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2500 RESPONSIBILITY; CALIBRATION AND OPERATION; INSPECTION; OFF-TARGET APPLICATION; INCIDENT PREVENTION; INCIDENT REPORTING.

A chemigation system applicant or the applicant's agent shall:

A. calibrate and operate each chemigation system in a manner that prevents an agricultural chemical incident or nonlabeled application of a pesticide;

B. inspect each chemigation system as necessary while agricultural chemicals are being applied;

C. prevent operation of a chemigation system in such a manner that agricultural chemicals are applied to an area other than an area targeted to receive an agricultural chemical application;

D. not clean agricultural chemical chemigation application, storage, pumping, or injection equipment in surface waters of the state, or fill or clean agricultural chemical chemigation application, storage, pumping, or injection equipment adjacent to surface waters, ditches, or wells where, because of the slope or other conditions, agricultural chemicals or materials contaminated with agricultural chemicals could enter or contaminate the surface waters, groundwater, or wells, as a result of overflow, leakage, or other causes; and

E. upon discovering that an incident has occurred, immediately report the incident to the commissioner.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2600 COMMISSIONER'S RESPONSIBILITY.

The commissioner shall annually provide chemigation safety information to each chemigation system applicant.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2700 INSTALLATION; MAINTENANCE; MODIFICATION.

Subpart 1. **Proper installation and maintenance.** Irrigation systems, antipollution devices and valves, and agricultural chemical injection units, pumps, and solution tanks used for chemigation purposes must be installed and maintained to ensure proper functioning during chemigation. Maintenance necessary to assure proper functioning of the device must be performed before introduction of agricultural chemicals.

Subp. 2. **Modification.** If modification or changes in design, technology, irrigation practices, or other similar reasons warrant the use or placement of equipment other than that specified in parts 1505.2100 to 1505.2800, the commissioner may allow the changes if protection to the water supply is at least equal to that provided by the equipment or equipment placement required in parts 1505.2100 to 1505.2800.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

1505.2800 PROHIBITED ACTS.

It is a violation of Minnesota Statutes, chapters 18B and 18C, for a person to apply an agricultural chemical to land, crops, or plants in or with irrigation water in violation of parts 1505.2100 to 1505.2800. Parts 1505.2100 to 1505.2800 are enforceable under Minnesota Statutes, chapter 18D.

Statutory Authority: *MS s 18C.575*

History: *17 SR 711*

NOTE: Parts 1505.2100 to 1505.2800 are effective January 1, 1994, except that an owner or operator may submit an application for a chemigation permit according to part 1505.2200 and the commissioner may collect the required fee and grant a chemigation permit before January 1, 1994.

BULK PESTICIDE STORAGE

1505.3010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 1505.3010 to 1505.3150, the words and terms defined in this part have the meanings given them.

Subp. 2. **Appurtenances.** "Appurtenances" means valves, pumps, fittings, pipes, hoses, and metering devices that are connected to a bulk pesticide container or used for transferring liquid bulk pesticide between containers.

Subp. 3. **Bulk pesticide.** "Bulk pesticide" means a pesticide that is held in an individual container with a pesticide content of 56 U.S. gallons or more, or 100 pounds or more net dry weight, including minibulk pesticide unless otherwise specified. Only technical grade, formulated grade, and other similar grades of bulk pesticide are included in this definition.

Subp. 4. **Bulk pesticide storage facility.** "Bulk pesticide storage facility" means a site at which a bulk pesticide is stored by a person who distributes or repackages the bulk pesticide.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 6. **Containment area.** "Containment area" means a facility, device, or system or a combination of these designed to prevent the escape or movement of a pesticide from the place it is stored or kept under conditions that might otherwise result in unreasonable adverse effects on the environment.

Subp. 7. **Custom mix.** "Custom mix" means a mixture of registered pesticide or pesticide–fertilizer mixes prepared by a dealer in response to a specific request of an end user of those products.

Subp. 8. **Disposal.** "Disposal" means the release, deposit, injection, dumping, spilling, leaking, or placing of pesticide into or on land or water so that the pesticide may enter the environment or be emitted into the air or released into any surface water or groundwater. This definition, however, does not include pesticide use allowable under Minnesota Statutes, chapter 18B or rules adopted under Minnesota Statutes, chapter 18B.

Subp. 9. **Dry pesticide.** "Dry pesticide" means pesticide that is in solid form before application or mixing for application, including formulations such as dusts, wettable powders, dry flowable powders, and granules.

Subp. 10. **Groundwater.** "Groundwater" means the water in the zone of saturation in which all of the pore spaces of the subsurface material are filled with water. The water that supplies springs and wells is groundwater.

Subp. 11. **Inorganic soil.** "Inorganic soil" means a soil that is a silty clay loam or finer with less than six percent organic matter. This definition pertains to the specific type of soil used to construct walls and liners of containment areas.

Subp. 12. **Liquid pesticide.** "Liquid pesticide" means pesticide in liquid form, including solutions, emulsions, suspensions, and slurries.

Subp. 13. **Minibulk pesticide.** "Minibulk pesticide" means an amount of liquid pesticide greater than 56 U.S. gallons (211 liters) but not greater than 499 U.S. gallons (1,892 liters), or an amount of dry pesticide greater than 100 pounds (45 kilograms) but not greater than 499 pounds (225 kilograms), that is held in a single container designed for ready handling and transport.

Subp. 14. **New bulk pesticide storage facility.** "New bulk pesticide storage facility" means a bulk pesticide storage facility established after July 1, 1989, at a site that was not previously used as a bulk pesticide storage facility. A facility is established, for purposes of this subpart, on the date it is first placed in use.

Subp. 15. **Previously established bulk pesticide storage facility.** "Previously established bulk pesticide storage facility" means a bulk pesticide storage facility established before July 1, 1989. A facility is established, for purposes of this subpart, on the date it is first placed in use.

Subp. 16. **Release.** "Release" means a pesticide release incident as defined in Minnesota Statutes, section 18B.01, subdivision 12, including a pesticide released into a secondary containment or loading area.

Subp. 17. **Release response plan.** "Release response plan" means a plan describing procedures employed for the notification of appropriate state agencies, stopping a release, recovering releases, and cleaning up the release area.

Subp. 18. **Repackaging.** "Repackaging" means a registrant's or manufacturer's authorized transfer and subsequent labeling of a registered pesticide from a bulk pesticide container to another pesticide container 56 U.S. gallons or more in an unaltered state in preparation for sale delivery to another dealer or user.

Subp. 19. **Revised bulk pesticide storage permit application.** "Revised bulk pesticide storage permit application" means an application for a bulk pesticide storage permit filed with the commissioner detailing substantial alterations that are to be made to a facility.

Subp. 20. **Storage container.** "Storage container" means a container used for the fixed storage of bulk pesticide, including a rail car, nurse tank, minibulk tank, or other mobile container for more than ten consecutive days. This definition does not include a container used solely for emergency storage of leaking pesticide containers that are less than 56 U.S. gallons or pesticide rinsate holding tanks.

Subp. 21. **Substantially altering.** "Substantially altering"includes, but is not limited to, the modification of a bulk pesticide storage facility through the changing, addition, or removal of bulk pesticide storage containers, appurtenances, load areas, secondary containment, or any modifications that may result in reducing the effectiveness of safeguards. This definition does not include the routine maintenance of bulk pesticide storage containers, load areas, secondary containment, or appurtenances.

Subp. 22. **Surface water.** "Surface water" means water that rests or flows on the surface of the ground.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3020 NEW FACILITIES.

Subpart 1. **Permit required.** No person may construct or operate a new bulk pesticide storage facility without first obtaining a permit under parts 1505.3040 and 1505.3050.

Subp. 2. **Information required before construction.** After being granted a permit by the commissioner, and before beginning construction of the bulk pesticide storage facility, an owner or manager shall submit to the commissioner:

A. the name, address, and telephone number of the persons who will construct, install, or modify the facility; and

B. copies of any permits or letters of authorization required by any local unit of government for the construction, installation, or modification of the facility.

Subp. 3. **Compliance within 90 days.** Within 90 days after being granted a permit by the commissioner, a new bulk pesticide storage facility owner or manager shall comply with parts 1505.3010 to 1505.3150.

Subp. 4. **Time extension.** The commissioner shall grant a time extension of up to 180 days for delays due to construction or equipment or material procurement if requested in writing by the facility owner or manager. The commissioner shall set forth in writing the reasons for granting or denying a requested time extension within 15 days of the request.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3030 PREVIOUSLY ESTABLISHED FACILITIES.

A person who operates a bulk pesticide storage facility established before July 1, 1989, must comply with items A to C.

A. The person must, by July 1, 1990, file with the commissioner an application for a bulk pesticide storage permit under parts 1505.3040 and 1505.3050 and comply with parts 1505.3010, 1505.3030, 1505.3060, and 1505.3090 to 1505.3150.

B. The person must, by July 1, 1991, comply with parts 1505.3070 and 1505.3080. The commissioner shall grant a time extension of up to one year for delays due to construction or equipment or material procurement, if requested in writing by the facility owner or manager. The commissioner shall set forth, in writing, the reasons for granting or denying a requested time extension within 15 days of the request.

C. After being granted a bulk pesticide storage permit by the commissioner, and before beginning any construction or substantially altering an existing bulk pesticide storage facility, the person must submit to the commissioner:

(1) the name, address, and telephone number of the persons who will construct, install, or modify the facility; and

(2) copies of any permits or letters of authorization required by any local or state unit of government for the construction, installation, or modification of the facility.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3040 BULK PESTICIDE STORAGE PERMIT.

Subpart 1. **Commissioner's review of application.** The commissioner shall review an initial application as submitted under part 1505.3050 within 30 days of receipt and either issue a bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance. Upon receipt of the additional requested compliance information from a person, the commissioner has 15 days in which to issue a bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance.

Subp. 2. **Substantial alterations.** No person may substantially alter any bulk pesticide storage facility without first being granted a revised bulk pesticide storage permit from the commissioner. The person must file a revised bulk pesticide storage permit application detailing the proposed alterations with the commissioner. The commissioner shall review an application for a revised bulk pesticide storage permit within 30 days of receipt and either issue a revised bulk pesticide storage permit or advise the applicant, in writing, of an unsatisfactory review and detail all changes necessary in order to achieve compliance.

Subp. 3. **Denial; revocation; suspension.** After written notice and a hearing, a bulk pesticide storage permit may be denied, revoked, or suspended for one or more of the following reasons:

A. failure to fully comply with parts 1505.3010 to 1505.3150;

B. obtaining the permit by misrepresentation or by failure to disclose all relevant facts; or

C. discovery of unreasonable adverse effects to the environment caused by the activities of the permit holder in the conduct of actions undertaken under the permit.

Subp. 4. **Permit transfer.** A bulk pesticide storage permit may be transferred from one person to another if an application for a permit detailing any changes and including the required fee is filed with the commissioner prior to the transfer.

Subp. 5. **Permit exceptions.** Persons who store bulk pesticides in a storage container of a rated capacity of less than 500 U.S. gallons or who store bulk pesticides in individual storage containers at a site where the total storage amount of bulk pesticide is less than 500 U.S. gallons, are not required to obtain a bulk pesticide storage permit, but are required to comply with all other applicable provisions of this part.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3050 APPLICATION AND PERMIT FEE.

Subpart 1. **Information required.** Application for a bulk pesticide storage permit must be on forms provided by the commissioner. The application must contain at least, but is not limited to, the following information:

A. a differentiation as to whether the bulk pesticide storage facility should be regarded as new or previously established;

B. the name, address, and telephone number of the person making application;

C. the name, address, and telephone number of the persons that will own and operate the facility;

D. the location of the facility, including its legal description;

E. photographs or a diagram of the current or proposed facility, including all buildings, tanks, fertilizer storage areas, mixing, loading, and rinsate recycling areas, vehicle washing areas, and bulk pesticide storage areas;

F. a geologic report of the facility property and the surrounding area, including maps, photographs, or diagrams of:

(1) the land use (crop land, residential, or business) within one–quarter mile radius of the facility;

(2) the distance and direction to surface water, drainage ditches, and storm sewers within one–quarter mile radius of the facility;

(3) the distance and direction to any source of a public water supply serving the facility;

(4) the year installed, depth, direction, and distance to any well on or within 150 feet of all existing and proposed loading and secondary containment areas; and

(5) the type of soils to the three foot depth beneath the surface fill such as, but not limited to, gravel, rock, or other soils of all existing and proposed loading and secondary containment areas.

G. the number, age or condition, dimension, capacity, and material description of the liquid bulk pesticide storage containers and a list of pesticides to be stored in them, with United States Environmental Protection Agency registration numbers;

H. a certification that to the best of the owner's or manager's knowledge the loading and containment areas will be built in accordance with construction and plumbing plans submitted and will comply with the design, construction, and containment requirements of parts 1505.3070 and 1505.3080;

I. at least one scale drawing of the loading and secondary containment areas to include a construction material specification or design guide;

J. a plumbing diagram showing the location, type, and specifications of the appurtenances used in storing or transferring bulk pesticides;

K. a copy of the release response plan as described in part 1505.3100; and

L. the person's federal Environmental Protection Agency establishment number, if required.

Subp. 2. **Fee.** The initial application for a bulk pesticide storage permit must be accompanied by the fee required in Minnesota Statutes, section 18B.14 for each bulk pesticide storage facility. No fee is required to apply for a revised bulk pesticide storage permit.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3060 GENERAL REQUIREMENTS.

Subpart 1. **Establishment number.** A facility that repackages bulk pesticides must obtain a pesticide producer establishment number from the United States Environmental Protection Agency.

Subp. 2. **Exception.** A person who custom mixes pesticides for application by the person's firm only, is not required to secure a pesticide producer establishment number from the United States Environmental Protection Agency.

Subp. 3. **Storage containers and appurtenances.**

A. Storage containers and appurtenances must be constructed, installed, and maintained to prevent the release of liquid bulk pesticide. Storage containers and appurtenances must be structurally sound, resistant to changes in temperature extremes, and constructed of materials that are adequately thick to be structurally sound and that are resistant to corrosion, puncture, or cracking. Materials used in the construction or repair of storage containers and appurtenances may not be of a type that reacts chemically or electrolytically with stored bulk pesticide in a way that may weaken the storage container or appurtenance, create a risk of release, or adulterate the pesticide. Metals used for valves, fittings, and repairs on metal containers must be compatible with the metals used in the construction of the storage container, so that the combination of metals does not cause or increase corrosion that may weaken the storage container or its appurtenances, or create a risk of release. Storage containers and appurtenances must be designed to handle all operating stresses taking into account the foreseeable course of operations. Underground appurtenances are prohibited as part of a system designed and constructed for transferring bulk pesticides unless approved by the commissioner.

B. Storage containers may only be constructed of stainless steel, fiberglass, polyethylene, ferrous metal, cross–linked polyolefin, or other commissioner–approved materials that are suitable for the stored bulk pesticide. Polyvinyl chloride tanks, fittings, and appurtenances are prohibited.

Ferrous metal tanks must have a protective lining that inhibits corrosion and does not react chemically with the stored pesticide.

Unlined ferrous metal tanks may be used only with proof of compatibility from the pesticide manufacturer.

C. Storage container connections, except safety relief connections, must be equipped with a shutoff valve located on the storage container or at a distance from the storage container dictated by standard engineering practice and in compliance with this part. Wetted parts inside shutoff valves and connections from the storage container to the shutoff valve must be made of stainless steel.

D. Storage containers must be equipped with a liquid level gauging device by which the level of liquid in the storage container can be readily and safely determined. A liquid level gauging device is not required if the level of the liquid in a storage container can be readily and reliably measured by other means. Liquid level gauging devices must be secured, in a safe manner, to protect against breakage or vandalism that may result in release. External sight gauges are permitted only with approval from the commissioner.

E. Meters and scales used for the sale of bulk pesticide must be compatible with the pesticide being metered or weighed.

F. Pipes and fittings must be adequately supported to prevent sagging and possible breakage because of gravity and other forces that may be encountered in the ordinary course of operations.

G. Valves must be secured and of a locking type to protect against vandalism or accidental valve openings that may result in a release.

H. Storage containers must be equipped with a vent or other device designed to relieve excess pressure, prevent losses by evaporation, and exclude precipitation.

Subp. 4. **Anchoring of storage containers.** Storage containers must be anchored to prevent flotation or instability that might occur as a result of liquid accumulations within a secondary containment area built under part 1505.3080. Anchoring may be accomplished by guy wires, or other commissioner–approved anchors.

Subp. 5. **Security.** Storage containers must be secured against access by unauthorized persons and provide protection against access by wildlife. Appurtenances must be fenced or otherwise secured to provide reasonable protection against vandalism or unauthorized access that may result in a release. Valves on storage containers must be locked or otherwise secured except when persons responsible for facility security are present at the facility. Valves on rail cars, nurse tanks, and other mobile pesticide containers parked overnight at a storage facility must be locked or secured except when persons responsible for facility security are present at the facility.

Subp. 6. **Filling.** Storage containers must not be filled to more than 95 percent of capacity unless the storage container construction or location provides constant temperature control of the container contents.

Repackaging and delivery of bulk pesticides must be attended and supervised at all times by the owner, manager, or an employee of the facility.

Subp. 7. **Protection against damage by moving vehicles.** Storage containers and appurtenances, including pipes, must be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles and objects.

Subp. 8. **Storage of dry bulk pesticide.** Except during loading, stored dry bulk pesticide must be covered by a roof or tarpaulin that will exclude precipitation from the pesticide. Storage containers must be placed on a concrete or other impervious surfaced floor on pallets or on a raised platform to prevent the accumulation of water in or under the pesticide.

Storage facilities must be secured against entry by unauthorized persons or wildlife.

Subp. 9. **Labeling of storage containers.** Every storage container must bear a current pesticide product label as required by the United States Environmental Protection Agency.

For outside storage, the label required under this part must be placed on the storage container so as to be visible from outside of the secondary containment area. The label must be legible at all times. The type size used on the label must be that specified in Code of Federal Regulations, title 40, part 162.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3070 LOADING AREAS.

Subpart 1. **Containment for liquid bulk pesticide loading sites.** An area used for the loading of liquid bulk pesticide into fixed storage containers, mobile containers, or pesticide application equipment at a bulk pesticide storage facility must be provided with a means of containment that is elevated above the surrounding area, constructed of reinforced concrete or other commissioner–approved material, and designed and constructed for the intended purpose. The means of containment must not contain a drain and must comply with either item A or B.

A. A curbed loading area without a sediment trap must comply with subitems (1) and (2).

(1) The perimeter of the area must be curbed a minimum of three inches in height to prevent run–off and the curbed surface must form a liquid–tight containment area.

(2) The curbed surface and containment area must contain a minimum of 1,000 U.S. gallons.

B. A sloped surface that contains a sediment trap must comply with subitems (1) to (3).

(1) The perimeter of the area must be curbed three inches in height to prevent runoff and must form a liquid–tight containment area.

(2) The area must be sloped to a sediment trap used only for the temporary collection of spilled or released pesticides. The sediment trap may not be greater than two feet deep or hold more than 109 U.S. gallons.

(3) The area must contain a minimum of 1,000 U.S. gallons.

Subp. 2. **Containment for pesticide–impregnated fertilizer loading sites.** An area used for the loading of pesticide impregnated fertilizer into fixed storage containers, mobile containers, or pesticide application equipment at a bulk pesticide storage facility must be provided with the means of containment in items A to C.

A. The containment area for pesticide–impregnated fertilizer loading must be elevated above the surrounding area, be constructed of reinforced concrete or other commissioner–approved material, and be designed and constructed for the intended purpose. A scale with a liquid–tight containment area is acceptable.

B. The containment area must be of adequate size to fully hold the largest fixed storage container, mobile containers, or commercial pesticide application equipment that will be loaded on the area.

C. The containment area must be protected or managed in a manner that will prevent pesticide–contaminated runoff from leaving the area.

Subp. 3. **Load area exceptions and underground plumbing.**

A. If load areas for fixed storage containers, mobile containers, or pesticide application equipment are physically separated from one another, each separate load area must be of a design, size, and construction to contain a minimum of 500 U.S. gallons.

B. If no bulk pesticide storage container at the storage facility has a rated capacity of more than 500 U.S. gallons, the load area must be of a design, size, and construction to contain a minimum of 500 U.S. gallons.

If no bulk pesticide storage container at the storage facility has a rated capacity of more than 250 U.S. gallons, the load area must be of a design, size, and construction to contain a minimum of 250 U.S. gallons.

C. A load area is not required for areas used for loading anhydrous ammonia tanks with pesticides used to control the nitrification process, if:

(1) the bulk pesticide storage container, pump, and associated connections are located within a secondary containment area;

(2) all pesticide delivery hoses are placed in the secondary containment area between uses;

(3) no aluminum components are used; and

(4) all pesticide releases are immediately abated and recovered.

D. Any underground plumbing used for transferring rinsates or sediment from a sediment trap to rinsate tanks must be designed, constructed, installed, and maintained to prevent the release of pesticides to the environment and the backflow of pesticide rinsates to the sediment trap.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3080 SECONDARY CONTAINMENT AREAS.

Subpart 1. **General requirements.** Liquid bulk pesticide storage containers must be confined to a secondary containment area that is adequate, in the event of a release, to prevent the movement of liquid pesticides to surface or ground water. The loading area as specified in part 1505.3070 must not be located, designed, or constructed in such a way so as to compromise the required secondary containment of subpart 2. The secondary containment provisions also apply to liquid bulk pesticides stored in a location covered by a roof. A secondary containment area must consist of:

A. a wall and liner as provided under subparts 4 and 5;

B. a prefabricated secondary containment basin as provided under subpart 6; or

C. other safeguards approved by the commissioner.

Subp. 2. **Capacity.** The capacity of a secondary containment area for a bulk pesticide storage facility must be at least equal to the sum of all of the following:

A. the greatest volume of liquid bulk pesticide or liquid bulk fertilizer that could be released from the largest storage container within the secondary containment area;

B. 25 percent of the capacity of the largest liquid bulk pesticide or liquid bulk fertilizer storage container located within the secondary containment area for an outdoor storage container, or ten percent of the capacity of the largest liquid bulk pesticide container or liquid bulk fertilizer if stored in a location covered by a roof; and

C. the total volume of released liquid which would be displaced by the portions of all other storage containers within the secondary containment area to the height of the containment wall and all other fixtures and materials located within the secondary containment area (including pesticide or fertilizer diluent, empty pesticide containers, recovered pesticide or fertilizer releases, and liquid pesticide or fertilizer metering equipment).

Subp. 3. **Storage with other commodities or equipment.**

A. Liquid bulk pesticide, liquid bulk fertilizer, pesticide or fertilizer diluent, empty pesticide containers, recovered pesticide or fertilizer releases, or liquid pesticide or fertilizer metering equipment may be stored within the bulk pesticide secondary containment area.

B. The total containment capacity calculated in subpart 2 may not be compromised by storing liquid bulk pesticide or liquid bulk fertilizer, pesticide or fertilizer diluent, pesticide containers, pesticide or fertilizer releases, pesticide or fertilizer metering equipment, or other equipment or products in amounts greater than the amounts which were originally calculated as necessary displacement in subpart 2.

C. A liquid bulk pesticide storage containment area may be located within the boundary of a liquid bulk fertilizer containment area if:

(1) the containment areas are separated by a wall described in subpart 4;

(2) the bulk pesticide is contained in an anchored prefabricated containment unit as described in subpart 6; or

(3) each bulk pesticide storage container and its appurtenances is effectively protected from corrosion and flotation by liquid bulk fertilizers.

Subp. 4. **Walls.** The walls of a secondary containment area must be made of ferrous metal, inorganic soil, stainless steel, reinforced concrete, or solid reinforced masonry and must be designed to withstand a full hydrostatic head of any released liquid. Cracks and seams must be sealed as needed to prevent leakage. Walls constructed of inorganic soil must be lined as provided under subpart 5, item D, be protected from erosion, and have a horizontal to vertical slope of at least three to one, unless a steeper slope is consistent with good engineering practice. Walls may not exceed six feet in height above the interior grade.

A. All bulk pesticide tanks must be placed a minimum of one foot from a secondary containment area wall.

B. Tanks over ten feet high stored outdoors must be located at least three feet from the secondary containment area wall.

C. The walls of a secondary containment area may not contain a drain or other similar opening.

D. Masonry walls must be reinforced, capped with concrete, and parged on the interior.

E. The joint between a masonry wall and any floor or subsurface that it is constructed on must be constructed, sealed, and protected in such a way that it prevents any pesticide leakage from leaving the containment area.

Subp. 5. **Lining.**

A. The base of a secondary containment area and any inorganic soil walls of a secondary containment area must be lined with reinforced concrete, a synthetic liner, an inorganic soil liner, ferrous metal, or stainless steel designed to limit the permeability of the base and walls. Liners must meet the requirements of this subpart. The base of a secondary containment area may not contain a drain or other similar opening used to release pesticides or precipitation. Dissimilar materials may not be used together for a wall and liner combination unless approved by the commissioner.

B. Concrete liners must be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of released liquid. Cracks and seams must be sealed to prevent leakage.

C. Synthetic liners must have a minimum thickness of 30 mils (0.8 millimeters), be chemically compatible with the materials being stored within the secondary containment area, be photo–resistant, and be puncture resistant. Confirmation of chemical compatibility and an estimate of liner life must be retained by the firm for inspection upon request by the Department of Agriculture. The synthetic liner must be protected by a 12–inch (30–centimeter) layer of inorganic soil or half–inch diameter rounded stone above the liner and a six–inch (15–centimeter) layer of inorganic soil below the liner. Soil layers must be free of large rocks, angular stones, sticks, or other materials that may puncture the liner. Synthetic liners must be installed according to the manufacturer's recommendations and, if necessary, under the supervision of a qualified representative of the manufacturer, and all field–constructed seams must be tested, and repaired if necessary, in accordance with the manufacturer's recommendations. Pesticide releases onto the inorganic soil portion of a synthetic liner containment area must be managed by the removal of contaminated soils. Disposition of contaminated soils is subject to approval from the Department of Agriculture. Integrity of the inorganic soil portion of the synthetic liner containment area must be restored under all circumstances.

D. Soil liners must comply with subitems (1) to (5).

(1) A liner may be constructed of inorganic soil treated with bentonite clay if the liner meets the requirements of this subitem. The liner must be designed and constructed according to good engineering practices, extend a minimum of six feet beyond the wall, and achieve a coefficient of permeability not to exceed 1 X 10–6 cm/sec, with a thickness of not less than six inches (15 centimeters). The liner must be covered by an inorganic soil layer not less than six inches (15 centimeters) thick. Liners may not be constructed of frost–susceptible soils, which include silts and silty sand.

(2) Bentonite–treated liners must consist of a uniform mixture of inorganic soil and bentonite. The inorganic soil used in the mixture must have a plasticity index of at least 12. At least 30 percent by weight of the inorganic soil must pass a No. 200 sieve, and less than five percent of the inorganic soil must be retained on a No. 4 sieve. Ninety percent of the bentonite by weight must pass a No. 80 sieve, and the inorganic soil–bentonite mixture must contain at least five percent bentonite by weight.

(3) An inorganic soil may not be used as part of a soil liner if less than 50 percent by weight of the soil passes a No. 200 sieve, or if more than five percent by weight of the inorganic soil is retained on a No. 4 sieve.

(4) Soil liners must be maintained to prevent cracking or other conditions that may compromise the integrity of containment. Pesticide releases into an inorganic soil–bentonite liner containment area must be managed by removal of contaminated soils within 48 hours. Contaminated soils must be used at labeled rates consistent with labeled end uses for the intended crop, or stored and used later at labeled rates consistent with labeled end uses for the intended crop, or disposed of according to local, state, and federal regulations. Integrity of the inorganic soil walls and inorganic soil–bentonite liner after a spill must be restored under all circumstances.

(5) An owner or manager shall submit to the commissioner, upon request, certification by a registered engineer practicing in the geotechnical field to verify that the coefficient of permeability of the liner does not exceed 1 X 10–6 cm/sec or that the inorganic soil lined containment area will contain released liquid to the height of the containment wall for at least 72 hours.

Subp. 6. **Prefabricated secondary containment basin.** A prefabricated secondary containment basin must be composed of a rigid prefabricated basin having both a base and walls constructed of steel or synthetic materials which are resistant to corrosion, puncture, or cracking. Materials used for the prefabricated basin must be chemically compatible with the products being stored in the bulk pesticide tank. A written confirmation of compatibility from the basin manufacturer must be kept on file at the storage facility or at the nearest local office from which the storage facility is administered. The prefabricated facility must be designed and installed to contain the amounts listed in subpart 2, including the tank load and a full hydrostatic head of any released liquid. Multiple basins connected to provide the capacity required under subpart 2, must be connected in a way that assures an unrestricted transfer

of released liquid between basins. A prefabricated containment basin may not be located where fire could damage the containment vessel and compromise the intended containment.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3090 RECOVERY, USE, OR DISPOSAL OF PESTICIDE RELEASES.

Subpart 1. **Loading areas and secondary containment areas.** All pesticide releases occurring in an area confined to loading areas described in part 1505.3070 and secondary containment areas described in part 1505.3080 must be recovered as soon as possible and must either be used, stored, or disposed of. Use and storage must be according to pesticide label instructions. Disposal must be according to local, state, and federal regulations. The Department of Agriculture must be immediately notified of all releases.

Subp. 2. **Precipitation accumulations.**

A. Precipitation must not be permitted to accumulate in a secondary containment area or loading area to the point where the accumulation may tend to:

(1) compromise the ability of the secondary containment area or loading areas to contain the amounts indicated in part 1505.3070 or 1505.3080;

(2) increase the corrosion of storage containers or appurtenances; or

(3) impair the stability of storage containers.

B. Precipitation, if contaminated with pesticide residues, must be:

(1) removed and used at labeled rates on sites consistent with labeled end uses for the intended target crop;

(2) removed and stored for later use according to subitem (1);

(3) disposed of according to local, state, and federal regulations; or

(4) used at a rate of no more than five percent of the total tank mix for delivery rates of 40 gallons per acre or less and ten percent for delivery rates of more than 40 gallons per acre. Records must be kept indicating amounts, crop to which applied, and dates.

C. Uncontaminated precipitation may be released to a vegetated area allowing for even distribution over the entire area or used as water for mixing.

Subp. 3. **Use of pesticide rinsate, pesticide containing sludge, or pesticide containing washwater accumulations.**

A. Sludge, rinsates, or washwater generated in a pesticide loading or secondary containment area as a result of loading, washing, rinsing, clean–up, or similar practices must be:

(1) removed and used at labeled rates consistent with labeled end uses for the intended target crop;

(2) removed and stored for later use according to subitem (1); or

(3) disposed of according to local, state, and federal regulations.

B. Sludge must be removed from a sediment trap before the trap is half full.

C. Rinsates and sludges may be used at a rate of no more than five percent of any total tank mix for delivery rates of 40 gallons per acre or less and ten percent for delivery rates of more than 40 gallons per acre. Washwater not contaminated with pesticides may be used undiluted.

D. Records indicating the amount removed (pounds or gallons), the location and acreage treated, and crops to which applied must be kept and made available for review during inspections by the commissioner. Records must be retained for a minimum of five years.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3100 PREPARATION FOR CONTROL AND RECOVERY OF PESTICIDE RELEASES.

Subpart 1. **Release response plan.** The operator of a bulk pesticide storage facility shall prepare a written release response plan for the storage facility. The operator shall keep the plan current at all times. A copy of the plan must be kept at a prominent location at the storage

facility and at the nearest local office from which the storage facility is administered, and must be made available for employee use and for inspection by the department. The operator of the storage facility shall provide a current copy of the plan to the local fire and police departments. The plan must include, but is not limited to:

A. the identity and telephone numbers of the persons who are to be contacted in the event of a release;

B. for every bulk pesticide stored at the facility, a complete copy of the storage container label required under part 1505.3060, subpart 9, and Minnesota Statutes, section 18B.26;

C. a complete copy of the material safety data sheet for every bulk pesticide stored at the facility;

D. the procedures and equipment to be used in controlling and recovering or otherwise responding to a release; and

E. an identification, by location, of every bulk pesticide storage container located at the facility, and the type of bulk pesticide stored in each storage container.

The plan need not include the specific location of each storage container of minibulk pesticide, if the plan includes the general location within the facility at which storage containers of minibulk pesticide are held.

Subp. 2. **Equipment and supplies.** Bulk pesticide storage facilities must have on the premises equipment needed to mitigate and recover pesticide releases. The equipment must include and is not limited to pumps, recovery containers, personal protective equipment, absorbent materials, and other materials used to control and recover pesticide releases. A checklist of release response equipment and its location must be posted with the release response plan.

Subp. 3. **Training.** The owner or manager of the storage facility shall conduct release response training for all new and existing employees of the facility annually before the beginning of the pesticide use season. New employees must receive training within 30 days of employment. The owner or manager and employees are responsible for following the firm's release response procedures pursuant to the release response plan to minimize contamination of the environment.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3110 INSPECTION AND MAINTENANCE.

Subpart 1. **Records.** The operator of a bulk pesticide storage facility shall inspect and maintain storage containers, appurtenances, loading areas, and secondary containment areas to minimize the risk of a pesticide release. A written record of all inspections and maintenance must be made on the day of the inspection or maintenance and kept at the storage site or at the nearest local office from which the storage site is administered. A record of all pesticide releases onto the loading area or into the secondary containment area including date, time, type of pesticide, volume, cause, actions to contain, and management of the release must be kept for at least five years.

Subp. 2. **Schedule.** A bulk pesticide container and its appurtenances must be inspected for leakage at least weekly during the use season. A secondary containment area must be inspected for condition and leakage of the base, seams, and walls at least monthly while bulk pesticide is in storage. Loading area pads must be inspected for leakage at least monthly during the use season.

Inspection records must contain the name of the person making the inspection, the date of each inspection, conditions noted, and maintenance performed.

Maintenance of the bulk pesticide storage facility must be performed as necessary in order to ensure that the integrity of the bulk pesticide containers, secondary containment areas, and loading areas is maintained.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3120 RECORD KEEPING.

The following records must be prepared and kept on file at the bulk pesticide storage facility while bulk pesticides are being stored in a storage container:

A. the beginning and end amounts in each fixed storage container calculated and recorded at the time of each filling;

B. the amount of bulk pesticide delivered, sold, and used; and

C. the names of the persons preparing the information in items A and B and the dates the information was prepared.

The records must be available and must be submitted to the commissioner within 24 hours of a request. Weighing, metering, or direct measurement are acceptable methods for calculating storage amounts.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3130 UNDERGROUND BULK PESTICIDE STORAGE.

Subpart 1. **New underground bulk pesticide storage prohibited.** After July 1, 1989, no new underground bulk pesticide storage is allowed. This prohibition does not apply to catch basins, containment areas, or sediment traps, used for the temporary collection of pesticides from transfer and loading areas under part 1505.3070, or to underground storage, dip, or other tanks used to contain pesticides used in the wood preservatives industry.

Subp. 2. **Existing and exempted underground bulk pesticide storage.** Underground bulk pesticide storage tanks in use as of July 1, 1989, or those tanks exempted from subpart 1 must conform with all applicable statutes and rules enforced by the Minnesota Pollution Control Agency, and must perform and provide to the commissioner upon request a leak certification test for each underground bulk pesticide storage tank.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3140 ABANDONED CONTAINERS.

Subpart 1. **Abandonment.** Storage containers and other containers used at a storage facility to hold bulk pesticide or pesticide rinsate are considered abandoned containers under this part if they have been out of service for more than six months because of a weakness or leak, or have been out of service for any reason for more than one year.

Subp. 2. **Underground containers.** Abandoned underground tanks in place at previously existing facilities must be thoroughly cleaned and removed from the ground.

Subp. 3. **Aboveground containers.** Abandoned aboveground containers must be thoroughly cleaned. All hatches on the containers must be removed and all valves or connections must be removed.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*

1505.3150 EXEMPTIONS.

Subpart 1. **Mobile containers.** The secondary containment requirements of part 1505.3080 do not apply to rail cars, nurse tanks, other mobile containers, or minibulk containers which are located at the bulk pesticide storage facility for less than ten consecutive days incidental to loading fixed bulk pesticide containers.

Subp. 2. **Alternate technology.** The commissioner shall exempt any person from a requirement under this part if compliance is not technically feasible, but only if the commissioner finds that the alternative measures provide substantially similar protection to the ground and surface water of the state. A person requesting an exemption shall submit to the commissioner in writing a request for an exemption detailing the alternative measures proposed. The commissioner has 45 days to analyze the facts presented and grant the exemption or advise the person of an unsatisfactory review and detail all changes necessary to achieve compliance.

Statutory Authority: *MS s 14.131 to 14.20*

History: *14 SR 161*