

## CHAPTER 18G

## PLANT PROTECTION AND EXPORT CERTIFICATION

18G.03 Powers and duties of commissioner.  
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**18G.03 POWERS AND DUTIES OF COMMISSIONER.**

**Subdivision 1. Entry and inspection.** (a) The commissioner may enter and inspect a public or private place that might harbor plant pests and may require that the owner destroy or treat plant pests, plants, or other material.

(b) If the owner fails to properly comply with a directive of the commissioner, the commissioner may have any necessary work done at the owner's expense. The commissioner shall notify the owner of the deadline for paying those expenses. If the owner does not reimburse the commissioner for an expense within a time specified by the commissioner, the expense is a charge upon the county as provided in subdivision 4.

(c) If a harmful plant pest infestation or infection threatens plants of an area in the state, the commissioner may take any measures necessary to eliminate or alleviate the potential significant damage or harm.

(d) The commissioner may collect fees required by this chapter.

(e) The commissioner may issue and enforce written or printed "stop-sale" orders, compliance agreements, and other directives and requests to the owner or custodian of any plants or articles infested or infected with a harmful plant pest.

*[For text of subds 2 to 4, see M.S.2004]*

**History:** 1Sp2005 c 1 art 1 s 28

**18G.10 EXPORT CERTIFICATION, INSPECTIONS, CERTIFICATES, PERMITS, AND FEES.**

*[For text of subds 1 to 4, see M.S.2004]*

**Subd. 5. Certificate fees.** (a) The commissioner shall assess the fees in paragraphs (b) to (f) for the inspection, service, and work performed in carrying out the issuance of a phytosanitary certificate or export certificate. The inspection fee must be based on mileage and inspection time.

(b) Mileage charge: current United States Internal Revenue Service mileage rate.

(c) Inspection time: \$50 per hour minimum or fee necessary to cover department costs. Inspection time includes the driving time to and from the location in addition to the time spent conducting the inspection.

(d) If laboratory analysis or other technical analysis is required to issue a certificate, the commissioner must set and collect the fee to recover this additional cost.

(e) Certificate fee for product value greater than \$250: \$75 for each phytosanitary or export certificate issued for any single shipment valued at more than \$250 in addition to any mileage or inspection time charges that are assessed.

(f) Certificate fee for product value less than \$250: \$25 for each phytosanitary or export certificate issued for any single shipment valued at less than \$250 in addition to any mileage or inspection time charges that are assessed.

(g) For services provided for in subdivision 7 that are goods and services provided for the direct and primary use of a private individual, business, or other entity, the commissioner must set and collect the fees to cover the cost of the services provided.

*[For text of subd 6, see M.S.2004]*

**Subd. 7. Supplemental, additional, or other certificates and permits.** (a) The commissioner may provide inspection, sampling, or certification services to ensure that

Minnesota plant products or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural products or commodities meet specified plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner.

**History:** *1Sp2005 c 1 art 1 s 29,30*

## 18G.16 SHADE TREE PEST AND DISEASE CONTROL.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Metropolitan area" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

(c) "Municipality" means a home rule charter or statutory city or a town located in the metropolitan area that exercises municipal powers under section 368.01 or any general or special law; a special park district organized under chapter 398; a special-purpose park and recreation board organized under the city charter of a city of the first class located in the metropolitan area; a county in the metropolitan area for the purposes of county-owned property or any portion of a county located outside the geographic boundaries of a city or a town exercising municipal powers; and a municipality or county located outside the metropolitan area with an approved disease control program.

(d) "Shade tree pest" means pests or pathogens affecting the growth and life of shade trees.

(e) "Wood utilization or disposal system" means facilities, equipment, or systems used for the removal and disposal of diseased or pest-infested shade trees, including collection, transportation, processing, or storage of wood and assisting in the recovery of materials or energy from wood.

(f) "Approved pest control program" means a municipal plan approved by the commissioner to control or eradicate a shade tree pest.

(g) "Pest control area" means an area approved by the commissioner within which a municipality will conduct an approved pest control program.

(h) "Sanitation" means the identification, inspection, disruption of a common root system, girdling, trimming, removal, and disposal of dead, pest-infested, or diseased wood of shade trees, including subsidies for trees removed pursuant to subdivision 4, on public or private property within a disease control area.

(i) "Reforestation" means the replacement of shade trees removed from public property and the planting of a tree as part of a municipal disease control program. For purposes of this paragraph, "public property" includes private property within five feet of the boulevard or street terrace in a city that enacted an ordinance on or before January 1, 1977, that prohibits or requires a permit for the planting of trees in the public right-of-way.

(j) "Shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes.

Subd. 2. **Commissioner to adopt rules.** The commissioner may adopt rules relating to shade tree pest and disease control in any municipality. The rules must prescribe control measures to be used to prevent the spread of shade tree pests and diseases and must include the following:

- (1) a definition of shade tree;
- (2) qualifications for tree inspectors;
- (3) methods of identifying diseased or pest-infested shade trees;
- (4) procedures for giving reasonable notice of inspection of private real property;
- (5) measures for the removal of any shade tree which may contribute to the spread of shade tree pests or disease and for reforestation of pest or disease control areas;

(6) approved methods of treatment of shade trees;

(7) criteria for priority designation areas in an approved pest or disease control program; and

(8) any other matters determined necessary by the commissioner to prevent the spread of shade tree pests or disease and enforce this section.

**Subd. 3. Diagnostic laboratory.** The commissioner shall operate a diagnostic laboratory for culturing diseased or pest-infested trees for positive identification of diseased or pest-infested shade trees.

**Subd. 4. Cooperation by university.** The University of Minnesota College of Natural Resources shall cooperate with the department in control of shade tree disease, pests, and disorders and management of shade tree populations. The College of Natural Resources shall cooperate with the department to conduct tree inspector certification and recertification workshops for certified tree inspectors. The College of Natural Resources shall also conduct research into means for identifying diseased or pest-infested shade trees, develop and evaluate control measures, and develop means for disposing of and using diseased or pest-infested shade trees.

**Subd. 5. Experimental programs.** The commissioner may establish experimental programs for sanitation or treatment of shade tree diseases and for research into tree varieties most suitable for municipal reforestation. The research must include considerations of disease resistance, energy conservation, and other factors considered appropriate. The commissioner may make grants to municipalities or enter into contracts with municipalities, nurseries, colleges, universities, or state or federal agencies in connection with experimental shade tree programs including research to assist municipalities in establishing priority designation areas for shade tree pest control and energy conservation.

**Subd. 6. Removal of diseased or pest-infested trees.** After reasonable notice of inspection, an owner of real property containing a shade tree that is diseased, infested, or may contribute to the spread of pests or disease, must remove or treat the tree within the period of time and in the manner established by the commissioner. Trees that are not removed in compliance with the commissioner's rules must be declared a public nuisance and removed or treated by approved methods by the municipality, which may assess all or part of the expense, limited to the lowest contract rates available that include wage levels which meet Minnesota minimum wage standards, to the property and the expense becomes a lien on the property. A municipality may assess not more than 50 percent of the expense of treating with an approved method or removing diseased or pest-infested shade trees located on street terraces or boulevards to the abutting properties and the assessment becomes a lien on the property.

**Subd. 7. Rules; applicability to municipalities.** The rules of the commissioner apply in a municipality unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules of the commissioner. The rules of the commissioner or the municipality apply to all state agencies, special purpose districts, and metropolitan commissions as defined in section 473.121, subdivision 5a, that own or control land adjacent to or within a shade tree pest control area.

**Subd. 8. Grants to municipalities.** (a) The commissioner may, in the name of the state and within the limit of appropriations provided, make a grant to a municipality with an approved pest control program for the partial funding of municipal sanitation and reforestation programs to replace trees lost to pest, disease, or natural disaster. The commissioner may make a grant to a home rule charter or statutory city, a special purpose park and recreation board organized under a charter of a city of the first class, a nonprofit corporation serving a city of the first class, or a county having an approved disease control program for the acquisition or implementation of a wood use or disposal system.

(b) The commissioner shall adopt rules for the administration of grants under this subdivision. The rules must contain:

(1) procedures for grant applications;

(2) conditions and procedures for the administration of grants;

(3) criteria of eligibility for grants including, but not limited to, those specified in this subdivision; and

(4) other matters the commissioner may find necessary to the proper administration of the grant program.

(c) Grants for wood utilization and disposal systems made by the commissioner under this subdivision must not exceed 50 percent of the total cost of the system. Grants for sanitation and reforestation must be combined into one grant program. Grants to a municipality for sanitation must not exceed 50 percent of sanitation costs approved by the commissioner including any amount of sanitation costs paid by special assessments, ad valorem taxes, federal grants, or other funds. A municipality must not specially assess a property owner an amount greater than the amount of the tree's sanitation cost minus the amount of the tree's sanitation cost reimbursed by the commissioner. Grants to municipalities for reforestation must not exceed 50 percent of the wholesale cost of the trees planted under the reforestation program; provided that a reforestation grant to a county may include 90 percent of the cost of the first 50 trees planted on public property in a town not included in the definition of municipality in subdivision 1 and with less than 1,000 population when the town applies to the county. Reforestation grants to towns and home rule charter or statutory cities of less than 4,000 population with an approved pest control program may include 90 percent of the cost of the first 50 trees planted on public property. The governing body of a municipality that receives a reforestation grant under this section must appoint up to seven residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the governing body of the municipality in the administration of the reforestation program. For the purpose of this subdivision, "cost" does not include the value of a gift or dedication of trees required by a municipal ordinance but does include documented "in-kind" services or voluntary work for municipalities with a population of less than 1,000 according to the most recent federal census.

(d) Based upon estimates submitted by the municipality to the commissioner, which state the estimated costs of sanitation and reforestation in the succeeding quarter under an approved program, the commissioner shall direct quarterly advance payments to be made by the state to the municipality commencing April 1. The commissioner shall direct adjustment of any overestimate in a succeeding quarter. A municipality may elect to receive the proceeds of its sanitation and reforestation grants on a periodic cost reimbursement basis.

(e) A home rule charter or statutory city, county outside the metropolitan area, or any municipality, as defined in subdivision 1, may submit an application for a grant authorized by this subdivision concurrently with its request for approval of a pest control program.

(f) The commissioner shall not make grants for sanitation and reforestation or wood utilization and disposal systems in excess of 67 percent of the amounts appropriated for those purposes to the municipalities located within the metropolitan area, as defined in subdivision 1.

**Subd. 9. Subsidies to certain owners.** A municipality may provide subsidies to nonprofit organizations, to owners of private residential property of five acres or less, to owners of property used for a homestead of more than five acres but less than 20 acres, and to nonprofit cemeteries for the approved treatment or removal of diseased or pest-infested shade trees.

Notwithstanding any law to the contrary, an owner of property on which shade trees are located may contract with a municipality to provide protection against the cost of approved treatment or removal of diseased or pest-infested shade trees or shade trees that will contribute to the spread of shade tree diseases or pest infestations. Under the contract, the municipality must pay for the removal or approved treatment under terms and conditions determined by its governing body.

*[For text of subds 10 to 13, see M.S.2004]*

Subd. 14. **Municipal option to participate in program.** The term "municipality" shall include only those municipalities which have informed the commissioner of their intent to continue an approved pest control program. Any municipality desiring to participate in the grants-in-aid for the partial funding of municipal sanitation and reforestation programs must notify the commissioner in writing before the beginning of the calendar year in which it wants to participate and must have an approved pest control program during any year in which it receives grants-in-aid. Notwithstanding the provisions of any law to the contrary, no municipality shall be required to have an approved disease control program after December 31, 1981.

*[For text of subd 15, see M.S.2004]*

**History:** 1Sp2005 c 1 art 1 s 31-40