NOXIOUS AND INVASIVE WEED UNIT:

Understanding the Minnesota Noxious Weed Law

MINNESOTA DEPARTMENT OF AGRICULTURE

www.mda.state.mn.us

Noxious and Invasive Weed Unit Contact Information

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In accordance with the Americans with Disabilities Act, an alternative form of communication is available upon request.
TDD: 1-800-627-3529. MDA is an equal opportunity employer and provider.

Minnesota Department of Agriculture

Plant Protection Division • Noxious and Invasive Weed Unit

The Minnesota Department of Agriculture (MDA) Noxious & Invasive Weed Unit was formed to assist landowners with managing noxious and invasive weeds throughout Minnesota. The Noxious & Invasive Weed Unit is responsible for the statewide coordination and implementation of the following activities:

1. Overseeing the Minnesota Noxious Weed Statutes.
2. Assisting counties, townships, municipalities, and private citizens with noxious and invasive weed species management.
3. Conducting and coordinating annual surveys for early detection of nuisance and invasive weed species.
4. Establishing and evaluating biological control for terrestrial weed species.
5. Providing education, training, and outreach for professional and private land managers.

The Noxious & Invasive Weed Unit has active biological control programs for leafy spurge and spotted knapweed. These programs are cooperator-based and depend on the commitment of local entities to monitor for weed infestations, request biological control agents for releases in their area, and monitor sites following releases to determine establishment of agents and biological control success. The Noxious & Invasive Weed Unit coordinates statewide collection and redistribution efforts for biological control agents and annually collects cooperator information pertaining to agent releases and site monitoring data that aids in tracking the distribution and impacts of these bioagents over time.

In addition to active biological control programs, the Noxious & Invasive Weed Unit is currently researching the potential for developing a biological control program for common tansy, an invasive weed of upland terrestrial landscapes. Exploration for potential biological control agents would occur in tansy's native range by European partners. This project is an international effort driven by a consortium of US and Canadian agencies and organizations. Coordination of funding and dissemination of information will be handled for Canadian parties through the Alberta Invasive Plant Council and for parties within the United States by the Noxious & Invasive Weed Unit. This work is in the initial stage and will require a significant partnership among the U.S. and Canadian parties to secure resources for overseas exploration and host-specificity testing of potential biological control agents.

This brochure provides a summary of recent changes to the Minnesota Noxious Weed Law, the entire 2009 revised statutes, listings of noxious weeds throughout the state, and contact information for the MDA's Noxious and Invasive Species Unit.

Major Changes to the MN Noxious Weed Law 2009

Prepared by Anthony Cortilet, Noxious and Invasive Weed Unit

The 2009 legislative session made significant changes to the Minnesota Noxious Weed Law. This document is intended to highlight the major changes and additions to the law. For specific information, please refer to the statute or its subdivisions (MN Statutes, Section 18.75 – 18.91). Normal text (black font) highlights additions made this year and blue font indicates where revisions to previous statute exist. Most of the changes to the MN Noxious Weed Law in 2009 have been additions to statute with a few revisions and one repeal (18.81 Subd. 1). The majority of changes occur in statutes18.79 (Duties of the Commissioner), 18.80 (Inspectors), 18.81 (Duties of Inspectors), 18.88 (Noxious Weed Program Funding), 18.89 (Noxious Weed and Invasive Plant Species Assistance Account), 18.90 (Grant Program), and 18.91 (Advisory Committee; Membership). The entire law can be found at: http://www.mda.state.mn.us/plants/weedcontrol/fsmnwp.htm

Three new sections have been added to the Noxious Weed Statute:

❶ **SECTION 18.89 – NOXIOUS WEED AND INVASIVE PLANT SPECIES ASSISTANCE ACCOUNT.**
Created within the agricultural fund and appropriated annually to the Commissioner of Agriculture to implement Section 18.90. Although this section was created during the 2009 legislative session, no money has been appropriated for the biennium (2010 & 2011) at this time.

❷ **SECTION 18.90 – NOXIOUS WEED AND INVASIVE SPECIES GRANT PROGRAM.**
Funded through an annual appropriation to the Commissioner of Agriculture through the Noxious Weed and Invasive Plant Species Assistance Account (18.90).

The Commissioner of Agriculture can use this grant program to solicit applications from counties, municipalities, and other weed management entities to assist them with implementation and maintenance of local noxious weed programs and to address special weed control problems.

Applications for this grant program will be evaluated by the Commissioner of Agriculture and the Noxious Weed Advisory Committee (Section 18.91) based on criteria outlined in the statute.

Grants may be awarded for applied research, demonstrative or innovative control methods, weed management areas, invasive species of concern, monitoring or surveillance activities, and educational activities pertaining to noxious weeds.

❸ **SECTION 18.91 – NOXIOUS WEED ADVISORY COMMITTEE; MEMBERSHIP**
This committee will evaluate plant species for invasiveness, difficulty of control, cost of control, possible benefits from these species and amount of injury caused by them.

The committee will conduct periodic evaluations of terrestrial plant species, develop noxious weed classifications, and develop management criteria for each species. This committee will also recommend to the Commissioner of Agriculture what species shall be listed by classification and listed species must be re-evaluated every three years.

Subd. 2 – Membership. *Representatives (outlined in Section 18.91) will be appointed by the Commissioner of Agriculture to serve on this Advisory Committee.*

Definitions (New and Changed)

18.77 DEFINITIONS.

Subd. 2a – Certified noxious weed free. *To be certified, materials have to be inspected, tested, or processed to devitalize or remove the noxious weed propagating parts.*

Subd. 3a – County-designated employee. *A person designated by a county board to oversee the enforcement, control or eradication of noxious weeds.*

Subd. 5 – Growing crop. *A statement has been added to this definition to specify that a growing crop "**does not mean a permanent pasture, hay meadow, woodlot, or other non-crop area that contains native or seeded perennial plants used for grazing or hay purposes, and that is not harvested on a regular basis**".*

Subd. 5a – Inspector. *The Commissioner of Agriculture, agent of the commissioner, County Agricultural Inspector, local weed inspector, or assistant weed inspector.*

County Agriculture Inspector, or local weed inspector has been changed throughout the law to read, "inspector or county designated employee"

Subd. 8a – Noxious weed management plan. *A formal management plan can now be developed on an area or site where noxious weeds are found in order to develop sound strategies ("singly or in combination") to achieve control or eradication.*

Subd. 13 – Weed management area. *A designated area where special or unique weed control or eradication strategies or methods are used according to a specific management plan.*

Sections (Additions and Changes)

18.78 CONTROL OR ERADICATION OF NOXIOUS WEEDS

Subd. 3 – Cooperative weed control agreement. *A cooperative weed control agreement can be formally established with a landowner or weed management area group to establish a mutually agreed upon noxious weed management plan for up to three years duration.*

18.79 DUTIES OF COMMISSIONER OF AGRICULTURE

Subd. 5 – Order for control or eradication of noxious weeds. *A county MUST make the identity of a county designated employee available to the public.*

Subd. 6 – Training for control or eradication of noxious weeds. *"Upon request, the commissioner MAY provide information and other technical assistance to the County Agricultural Inspector or county designated employee to aid in the performance of responsibilities specified by the county board"*

Subd. 12 – Noxious-weed-free forage and mulch certification agency. *This subdivision has been revised to include "soil, gravel, and other material". Additionally, "the commissioner may also certify forage, mulch, soil, gravel, or other material as noxious weed free".*

Subd. 13 - Noxious weed designation. *The commissioner will now consult with a newly created Noxious Weed Advisory Committee (18.91) to determine what plants are noxious weeds and subject to control under the MN Noxious Weed Law. The noxious weed list will be examined at least once every three years and distributed to the public. The commissioner, in consultation with the Noxious Weed Advisory Committee, may accept petitions for noxious weeds suggested by MN citizens, organizations, or associations.*

Subd. 14 - County petition. *Counties can send a formal petition to the commissioner to designate specific noxious weeds that are problems within that county.*

Subd. 15 - Noxious weed management. *The Noxious Weed Advisory Committee will develop management strategies and criteria for each noxious weed category.*

Subd. 16 – Gifts; grants; contracts; funds. *"The commissioner, counties, and municipalities MAY apply for and accept any gift, grant, contract, or other funds or grants-in-aid from the federal government or other public and private sources for noxious weed control purposes"*

Subd. 17 – Noxious weed investigation. *The commissioner, in an effort to "protect the agricultural industry, forests, and the environment", SHALL conduct investigations of noxious weeds outside the state that generally do not occur in MN.*

Subd. 18 – Noxious weed education. *The commissioner will actively "disseminate information and conduct education and outreach with respect to noxious weeds or invasive plants to enhance regulatory compliance and voluntary efforts to eliminate or manage these plants".*

Sub. 19 – State and federal lands. *The commissioner "SHALL inform and direct state and federal agencies regarding their responsibility to manage and control noxious weeds on land that those agencies own, control, or manage".*

Sub. 20 – Interagency cooperation: *The Commissioner "SHALL cooperate with federal, state, and local governments and other persons to carry out the duties of the Minnesota Noxious Weed Law.*

Sub. 21 – Weed Management Area: The Noxious Weed Advisory Committee MAY establish weed management areas throughout the state that can include "a part of one or more counties or all of one or more counties" in Minnesota. Weed management plans developed for the WMA must be reviewed by the Noxious Weed Advisory Committee and approved by the commissioner. Weed Management Areas can seek funding through the grant program (section 18.90).

18.80 INSPECTORS

Subd. 1 – County agricultural inspectors; and County-designated employees. *This subdivision has been revised to emphasize that "the county board SHALL either appoint at least one County Agricultural Inspector" or "a county-designated employee" to carry out the control or eradication of noxious weeds within the county. Notices of appointment of either position must be given to the Commissioner of Agriculture within 30 days.*

Subd. 2 – Local weed inspectors. *Town board supervisors and city mayors are the local weed inspectors within their respective municipalities.*

Subd. 3 – Assistant weed inspectors. *A municipality may appoint one or more assistants to serve as a weed inspector with the "power, authority, and responsibility of the town board members or the city mayor".*

18.81 DUTIES OF INSPECTORS AND COUNTY-DESIGNATED EMPLOYEES

Subd. 1 – County agricultural inspectors. *Has been repealed [Repealed, 2009 c 94 art 1 s 107]*

Subd. 1a – Duties; county agricultural inspectors and county-designated employees. *The CAI or county-designated employee shall be responsible for the enforcement of control or eradication of noxious weeds in the state and also serve as the "point of contact" for noxious weed issues.*

Subd. 1b – County agricultural inspectors. *This subdivision lists responsibilities of the county board, in terms of listing additional duties beyond those of enforcing the noxious weed law statutes, for the County Agricultural Inspector in an annual work plan. Some of these MAY include working with the Minnesota Noxious Weed Seed and Screening statutes, participating in control programs for invasive plant species, feed, fertilizer, pesticide and plant and insect pests, publishing a general weed notice to the public annually, and serving as the primary county contact for weed biological control agents.*

18.84 LIABILITY; APPEALS

Subd. 3 – Appeal of costs to district court; petition. *A revision to this subdivision now states that any person ordered to control noxious weeds and is charged for the cost of control has 30 days after being CHARGED to file a petition for judicial review of the charges. The previous language stated that a petition must be filed 30 days following the conclusion of the hearing before the county board.*

18.88 NOXIOUS WEED PROGRAM FUNDING

Subd. 1 – County. *This subdivision has been revised to OMIT previous language that stated the county board SHALL pay "for necessary expenses as required for quarantines within the county". It has also added a statement that "use of funding from the grants and other sources for the administration and enforcement of the Minnesota Noxious Weed Law must be approved by the county board".*

Subd. 2 – Municipality: *This subdivision has been revised to OMIT previous language that stated the municipality SHALL pay "for quarantines within the municipality". It has also added a statement that "use of funding from the grants and other sources for the administration and enforcement of the Minnesota Noxious Weed Law must be approved by the town board or city mayor".*

Subd. 3 – Funding. *"funding in the form of grants or cost sharing may be provided to the counties for the performance of their activities under section 18.81, subdivision 1a and 1b".*

18.75 PURPOSE.

It is the policy of the legislature that residents of the state be protected from the injuriouseffects of noxious weeds on public health, the environment, public roads, crops, livestock, andother property. Sections 18.76 to 18.91 contain procedures for controlling and eradicating noxiousweeds on all lands within the state.

History: *1992 c 500 s 1; 2009 c 94 art 1 s 14*

18.76 CITATION.

Sections 18.76 to 18.91 may be cited as the "Minnesota Noxious Weed Law."

History: *1992 c 500 s 2; 2009 c 94 art 1 s 15*

18.77 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to sections 18.76 to 18.91.

Subd. 2. [Repealed, 1996 c 310 s 1]

Subd. 2a. **Certified noxious weed free.** "Certified noxious weed free" means that the material being certified has been inspected, tested, or processed to devitalize or remove the noxious weed propagating parts in order to verify that viable noxious weed propagating parts are not present in the material.

Subd. 2b. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Control.** "Control" means to destroy all or part of the aboveground growth of noxious weeds by a lawful method that does not cause unreasonable adverse effects on the environment as defined in section 18B.01, subdivision 31, and prevents the maturation and spread of noxious weed propagating parts from one area to another.

Subd. 3a. **County-designated employee.** "County-designated employee" means a person designated by a county board to oversee the responsibilities in section 18.81, subdivision 1a.

Subd. 4. **Eradicate.** "Eradicate" means to destroy the aboveground growth and the roots of noxious weeds by a lawful method that prevents the maturation and spread of noxious weed propagating parts from one area to another.

Subd. 5. **Growing crop.** "Growing crop" means an agricultural, horticultural, or forest crop that has been planted or regularly maintained and intended for harvest. It does not mean a permanent pasture, hay meadow, woodlot, or other noncrop area that contains native or seeded perennial plants used for grazing or hay purposes, and that is not harvested on a regular basis.

Subd. 5a. **Inspector.** "Inspector" means the commissioner, agent of the commissioner, county agricultural inspector, local weed inspector, or assistant weed inspector.

Subd. 6. **Land.** "Land" means a parcel or tract of real estate including wetlands and public waters but not including buildings unless they are a place of business and open to the general public.

Subd. 7. **Municipality.** "Municipality" means a home rule charter or statutory city or a township.

Subd. 8. **Noxious weed.** "Noxious weed" means an annual, biennial, or perennial plant that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

Subd. 8a. **Noxious weed management plan.** "Noxious weed management plan" means controlling or eradicating noxious weeds in the manner designated in a management plan developed for the area or site where the infestations are found using specific strategies or methods that are to be used singly or in combination to achieve control or eradication.

Subd. 9. **Occupant.** "Occupant" means a person who uses land as a principal residence or who leases land or both.

Subd. 10. **Permanent pasture, hay meadow, woodlot, and other noncrop area.** "Permanent pasture, hay meadow, woodlot, and other noncrop area" means an area of predominantly native or seeded perennial plants that can be used for grazing or hay purposes but is not harvested on a regular basis and is not considered to be a growing crop.

Subd. 11. **Person.** "Person" means an individual, partnership, corporation, society, association, firm, public agency, or an agent for one of those entities.

Subd. 12. **Propagating parts.** "Propagating parts" means plant parts, including seeds, that are capable of producing new plants.

Subd. 13. **Weed management area**. "Weed management area" means a designated area where special or unique noxious weed control or eradication strategies or methods are used according to a specific management plan developed for each management area established.

History: *1992 c 500 s 3; 2009 c 94 art 1 s 16-24*

18.78 CONTROL OR ERADICATION OF NOXIOUS WEEDS.

Subdivision 1. **Generally.** A person owning land, a person occupying land, or a person responsible for the maintenance of public land shall control or eradicate all noxious weeds on the land at a time and in a manner ordered by an inspector or county-designated employee.

Subd. 2. **Control of purple loosestrife.** An owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife below the ordinary high water level of the public water or wetland. The commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees, agents, and contractors of the commissioner of natural resources may enter upon public waters and wetlands designated under section 103G.201 and, after providing notification to the occupant or owner of the land, may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. The commissioner of natural resources shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled with herbicides in designated public waters. The commissioner of natural resources must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed purple loosestrife infestations in priority order within the limits of funding allocated for that purpose. This procedure shall supersede the other provisions for control of noxious weeds set forth elsewhere in this chapter. The responsibility of the commissioner of natural resources to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.78 to 18.88. State officers, employees, agents, and contractors of the commissioner of natural resources are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

Subd. 3. **Cooperative weed control agreement.** The commissioner, municipality, or county agricultural inspector or county-designated employee may enter into a cooperative weed control agreement with a landowner or weed management area group to establish a mutually agreed-upon noxious weed management plan for up to three years duration, whereby a noxious weed problem will be controlled without additional enforcement action. If a property owner fails to comply with the noxious weed management plan, an individual notice may be served.

History: *1992 c 500 s 4; 2003 c 128 art 3 s 14; 2004 c 243 s 2; 2009 c 94 art 1 s 25,26*

18.79 DUTIES OF COMMISSIONER.

Subdivision 1. **Enforcement.** The commissioner shall administer and enforce sections 18.76 to 18.91.

Subd. 2. **Authorized agents.** County agricultural inspectors may administer and enforce sections 18.76 to 18.91. A county-designated employee may enforce sections 18.78, 18.82, 18.83, 18.84, 18.86, and 18.87. A county must make the identity of a county-designated employee described by this subdivision available to the public.

Subd. 3. **Entry upon land.** To administer and enforce sections 18.76 to 18.91, an inspector or county-designated employee may enter upon land without consent of the owner and without being subject to an action for trespass or any damages.

Subd. 4. **Rules.** The commissioner may adopt necessary rules under chapter 14 for the proper enforcement of sections 18.76 to 18.91.

Subd. 5. Order for control or eradication of noxious weeds. An inspector or county-designated employee may order the control or eradication of noxious weeds on any land within the inspector's or county-designated employee's jurisdiction. A county must make the identity of a county-designated employee described by this subdivision available to the public.

Subd. 6. **Training for control or eradication of noxious weeds.** The commissioner shall conduct initial training considered necessary for inspectors and county-designated employees in the enforcement of the Minnesota Noxious Weed Law. The director of the Minnesota Extension Service may conduct educational programs for the general public that will aid compliance with the Minnesota Noxious Weed Law. Upon request, the commissioner may provide information and other technical assistance to the county agricultural inspector or county-designated employee to aid in the performance of responsibilities specified by the county board under section 18.81, subdivisions 1a and 1b.

Subd. 7. **Meetings and reports.** The commissioner shall designate by rule reports required to be made and meetings that must be attended by inspectors.

Subd. 8. **Prescribed forms.** The commissioner shall prescribe the forms to be used by inspectors and county-designated employees in the enforcement of sections 18.76 to 18.91.

Subd. 9. **Injunction.** If the county agricultural inspector or county-designated employee applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate sections 18.76 to 18.91, the injunction may be issued without requiring a bond.

Subd. 10. **Prosecution.** On finding that a person has violated sections 18.76 to 18.91, the county agricultural inspector or county-designated employee may start court proceedings in the locality in which the violation occurred. The county attorney may prosecute actions under sections 18.76 to 18.91 within the county attorney's jurisdiction.

Subd. 11. [Repealed, 2004 c 228 art 1 s 76]

Subd. 12. **Noxious-weed-free forage and mulch certification agency.** The official certification agency for noxious-weed-free forage, mulch, soil, gravel, and other material must be determined by the commissioner in consultation with the director of the Minnesota agricultural experiment station. The commissioner may also certify forage, mulch, soil, gravel, or other material as noxious weed free.

Subd. 13. **Noxious weed designation.** The commissioner, in consultation with the Noxious Weed Advisory Committee, shall determine which plants are noxious weeds subject to control under sections 18.76 to 18.91. The commissioner shall prepare, publish, and revise as necessary, but at least once every three years, a list of noxious weeds and their designated classification. The list must be distributed to the public by the commissioner who may request the help of the University of Minnesota Extension, the county agricultural inspectors, and any other organization the commissioner considers appropriate to assist in the distribution. The commissioner may, in consultation with the Noxious Weed Advisory Committee, accept and consider noxious weed designation petitions from Minnesota citizens or Minnesota organizations or associations.

Subd. 14. **County petition.** A county may petition the commissioner to designate specific noxious weeds which are a control problem in the county.

Subd. 15. **Noxious weed management.** The commissioner, in consultation with the Noxious Weed Advisory Committee, shall develop management strategies and criteria for each noxious weed category.

Subd. 16. **Gifts; grants; contracts; funds.** The commissioner, counties, and municipalities may apply for and accept any gift, grant, contract, or other funds or grants-in-aid from the federal government or other public and private sources for noxious weed control purposes.

Subd. 17. **Noxious weed investigation.** The commissioner shall investigate the subject of noxious weeds and conduct investigations outside this state to protect the interest of the agricultural industry, forests, or the environment of this state from noxious weeds not generally growing in Minnesota.

Subd. 18. **Noxious weed education.** The commissioner shall disseminate information and conduct educational campaigns with respect to control of noxious weeds or invasive plants to enhance regulatory compliance and voluntary efforts to eliminate or manage these plants. The commissioner shall call and attend meetings and conferences dealing with the subject of noxious weeds. The commissioner shall maintain on the department's Web site noxious weed management information including but not limited to the roles and responsibilities of citizens and government entities under sections 18.76 to 18.91 and specific guidance as to whom a person should contact to report a noxious weed issue.

Subd. 19. **State and federal lands.** The commissioner shall inform and direct state and federal agencies regarding their responsibility to manage and control noxious weeds on land that those agencies own, control, or manage.

Subd. 20. **Interagency cooperation.** The commissioner shall cooperate with agencies of federal, state, and local governments and other persons in carrying out duties under sections 18.76 to 18.91.

Subd. 21. **Weed management area.** The commissioner, in consultation with the Noxious Weed Advisory Committee, may establish a weed management area to include a part of one or more counties or all of one or more counties of this state and shall include all the land within the boundaries of the area established. Weed management plans developed for a weed management area must be reviewed and approved by the commissioner and the Noxious Weed Advisory Committee. Weed management areas may seek funding under section 18.90.

History: *1986 c 444; 1992 c 500 s 5; 1997 c 216 s 27; 2003 c 128 art 3 s 15-20; 2009 c 94 art 1 s 27*

18.80 INSPECTORS.

Subdivision 1. **County agricultural inspectors and county-designated employees.** The county board shall either appoint at least one county agricultural inspector to carry out the duties specified under section 18.81, subdivisions 1a and 1b, or a county-designated employee to carry out the duties specified under section 18.81, subdivision 1a. A notice of the appointment of either a county agricultural inspector or county-designated employee must be delivered to the commissioner within 30 days.

Subd. 2. **Local weed inspectors.** The supervisors of each town board and the mayor of each city shall act as local weed inspectors within their respective municipalities.

Subd. 3. **Assistant weed inspectors.** A municipality may appoint one or more assistants toact on behalf of the

appointing authority as a weed inspector for the municipality. The appointed assistant or assistants have the power, authority, and responsibility of the town board members or the city mayor in the capacity of weed inspector.

History: *1992 c 500 s 6; 2009 c 94 art 1 s 28*

18.81 DUTIES OF INSPECTORS AND COUNTY-DESIGNATED EMPLOYEES.

Subdivision 1. [Repealed, 2009 c 94 art 1 s 107]

Subd. 1a. **Duties; county agricultural inspectors and county-designated employees.** The county agricultural inspector or county-designated employee shall be responsible for:

(1) the enforcement provisions under sections 18.78, 18.82, 18.83, 18.84, 18.86 and 18.87; and

(2) providing a point of contact within the county for noxious weed issues.

Subd. 1b. **County agricultural inspectors.** In addition to the mandatory duties specified in subdivision 1a, the county board must specify the responsibilities of the county agricultural inspector in the annual work plan. The responsibilities may include:

(1) to see that sections 18.76 to 18.91 and rules adopted under those sections are carried out within the inspector's jurisdiction;

(2) to see that sections 21.80 to 21.92 and rules adopted under those sections are carried out within the inspector's jurisdiction;

(3) to see that sections 21.71 to 21.78 and rules adopted under those sections are carried out within the inspector's jurisdiction;

(4) to participate in the control programs for invasive plant species, feed, fertilizer, pesticide, and plant and insect pests when requested, in writing, to do so by the commissioner;

(5) to participate in other agricultural programs under the control of the commissioner when requested, in writing, by the commissioner to do so;

(6) to administer the distribution of funds allocated by the county board to the county agricultural inspector for noxious weed control and eradication within the county;

(7) to submit reports and attend meetings that the commissioner requires;

(8) to publish a general weed notice of the legal duty to control noxious weeds in one or more legal newspapers of general circulation throughout the county; and

(9) to be the primary contact in the county for all plant biological control agents.

Subd. 2. **Local weed inspectors.** Local weed inspectors shall:

(1) examine all lands, including highways, roads, alleys, and public ground in the territory over which their jurisdiction extends to ascertain if section 18.78 and related rules have been complied with;

(2) see that the control or eradication of noxious weeds is carried out in accordance with section 18.83 and related rules; and

(3) issue permits in accordance with section 18.82 and related rules for the transportation of materials or equipment infested with noxious weed propagating parts.

Subd. 3. Nonperformance by inspectors; reimbursement for expenses. If local weed inspectors neglect or fail to do their duty as prescribed in this section, the county agricultural inspector or county-designated employee, in consultation with the commissioner, may issue a notice to the inspector providing instructions on how and when to do their duty. If, after the time allowed in the notice, the local weed inspector has not complied as directed, the county agricultural inspector or county-designated employee may consult with the commissioner to perform the duty for the local weed inspector. A claim for the expense of doing the local weed inspector's duty is a legal charge against the municipality in which the inspector has jurisdiction. The county agricultural inspector or county-designated employee overseeing the work may file an itemized statement of costs with the clerk of the municipality in which the work was performed. The municipality shall immediately issue proper warrants to the county for the work performed. If the municipality fails to issue the warrants, the county auditor may include the amount contained in the itemized statement of costs as part of the next annual tax levy in the municipality and withhold that amount from the municipality in making its next apportionment.

History: *1992 c 500 s 7; 2003 c 128 art 3 s 21,22; 2009 c 94 art 1 s 29-31*

18.82 TRANSPORTATION OF NOXIOUS WEED PROPAGATING PARTS IN INFESTED MATERIAL OR EQUIPMENT.

Subdivision 1. **Permits.** Except as provided in section 21.74, if a person wants to transport along a public highway materials or equipment containing the propagating parts of weeds designated as noxious by the commissioner, the person must secure a written permit for transportation of the material or equipment from an inspector or county-designated employee. Inspectors or county-designated employees may issue permits to persons residing or operating within their

jurisdiction. If the noxious weed propagating parts are removed from materials and equipment or devitalized before being transported, a permit is not needed.

Subd. 2. **Conditions of permit issuance.** The following conditions must be met before a permit under subdivision 1 may be issued:

(1) any material or equipment containing noxious weed propagating parts that is about to be transported along a public highway must be in a container that is sufficiently tight and closed or otherwise covered to prevent the blowing or scattering of the material along the highway or on other lands or water; and

(2) the destination for unloading and the use of the material or equipment containing noxious weed propagating parts must be stated on the permit along with the method that will be used to destroy the viability of the propagating parts and thereby prevent their being dumped or scattered upon land or water.

Subd. 3. **Duration of permit; revocation.** A permit under subdivision 1 is valid for up to one year after the date it is issued unless otherwise specified by the inspector or county-designated employee issuing the permit. The permit may be revoked if an inspector or county-designated employee determines that the applicant has not complied with this section.

History: *1992 c 500 s 8; 2009 c 94 art 1 s 32,33*

18.83 CONTROL; ERADICATION; NOTICES; EXPENSES.

Subdivision 1. **General weed notice.** A general notice for noxious weed control oreradication must be published on or before May 15 of each year. Failure of the county agricultural weed inspector or county-designated employee to publish the general notice does not relieve a person from the necessity of full compliance with sections 18.76 to 18.91 and related rules. The published notice is legal and sufficient notice when an individual notice cannot be served.

Subd. 2. **Individual notice.** An inspector or county-designated employee may find it necessary to secure more prompt or definite control or eradication of noxious weeds than is accomplished by the published general notice. In these special or individual instances, involving one or a limited number of persons, the inspector or county-designated employee having jurisdiction shall serve individual notices in writing upon the person who owns the land and the person who occupies the land, or the person responsible for or charged with the maintenance of public land, giving specific instructions on when and how named noxious weeds are to be controlled or eradicated. Individual notices provided for in this section must be served in the same manner as a summons in a civil action in the district court or by certified mail. Service on a person living temporarily or permanently outside of the inspector's or county-designated employee's jurisdiction may be made by sending the notice by certified mail to the last known address of the person, to be ascertained, if necessary, from the last tax list in the county treasurer's office.

Subd. 3. **Appeal of individual notice; appeal committee.**

(1) A recipient of an individual notice may appeal, in writing, the order for control or eradication of noxious weeds. This appeal must be filed with a member of the appeal committee in the county where the land is located within two working days of the time the notice is received. The committee must inspect the land specified in the notice and report back to the recipient and the inspector or county-designated employee who issued the notice within five working days, either agreeing, disagreeing, or revising the order. The decision may be appealed in district court. If the committee agrees or revises the order, the control or eradication specified in the order, as approved or revised by the committee, may be carried out.

(2) The county board shall appoint members of the appeal committee. The membership must include a county commissioner or municipal official and a landowner residing in the county. The expenses of the members may be reimbursed by the county upon submission of an itemized statement to the county auditor. At its option, the county board, by resolution, may delegate the duties of the appeal committee to its board of adjustment established pursuant to section 394.27. When carrying out the duties of the appeal committee, the zoning board of adjustment shall comply with all of the procedural requirements of this section.

Subd. 4. **Control or eradication by inspector or county-designated employee.** If a person does not comply with an individual notice served on the person or an individual notice cannot be served, the inspector or county-designated employee having jurisdiction shall have the noxious weeds controlled or eradicated within the time and in the manner the inspector or county-designated employee designates.

Subd. 5. **Control or eradication by inspector or county-designated employee in growing crop.** An inspector or county-designated employee may consider it necessary to control or eradicate noxious weeds along with all or a part of a growing crop to prevent the maturation and spread of noxious weeds within the inspector's or county-designated employee's jurisdiction. If this situation exists, the inspector or county-designated employee may have the noxious weeds controlled or eradicated together with the crop after the appeal committee has reviewed the matter as outlined in subdivision 3 and reported back agreement with the order.

Subd. 6. **Authorization for person hired to enter upon land.** The inspector or county-designated employee

may hire a person to control or eradicate noxious weeds if the person who owns the land, the person who occupies the land, or the person responsible for the maintenance of public land has failed to comply with an individual notice or with the published general notice when an individual notice cannot be served. The person hired must have authorization, in writing, from the inspector or county-designated employee to enter upon the land.

Subd. 7. **Expenses; reimbursements.** A claim for the expense of controlling or eradicating noxious weeds, which may include the costs of serving notices, is a legal charge against the county in which the land is located. The officers having the work done must file with the county auditor a verified and itemized statement of cost for all services rendered on each separate tract or lot of land. The county auditor shall immediately issue proper warrants to the persons named on the statement as having rendered services. To reimburse the county for its expenditure in this regard, the county auditor shall certify the total amount due and, unless an appeal is made in accordance with section 18.84, enter it on the tax roll as a tax upon the land and it must be collected as other real estate taxes are collected. If public land is involved, the amount due must be paid from funds provided for maintenance of the land or from the general revenue or operating fund of the agency responsible for the land. Each claim for control or eradication of noxious weeds on public lands must first be approved by the commissioner of agriculture.

History: *1992 c 500 s 9; 2005 c 49 s 1; 2009 c 94 art 1 s 34*

18.84 LIABILITY; APPEALS.

Subdivision 1. **Counties and municipalities.** Counties and municipalities are not liable for damages from the noxious weed control program for actions conducted in accordance with sections 18.76 to 18.91.

Subd. 2. **Appeal of charges to county board.** A person who is ordered to control noxious weeds under sections 18.76 to 18.91 and is charged for noxious weed control may appeal the cost of noxious weed control to the county board of the county where the noxious weed control measures were undertaken within 30 days after being charged. The county board shall determine the amount and approve the charge and filing of a lien against the property if it determines that the owner, or occupant if other than the owner, responsible for controlling noxious weeds did not comply with the order of the inspector or county-designated employee.

Subd. 3. **Appeal of costs to district court; petition.**

(a) A person who is ordered to control noxious weeds under sections 18.76 to 18.91 and is charged for the cost of noxious weed control may petition for judicial review of the charges. The petition must be filed within 30 days after being charged. The petition must be filed with the court administrator in the county in which the land where the noxious weed control measures were undertaken is located, together with proof of service of a copy of the petition on the county auditor. No responsive pleadings may be required of the county, and no court fees may be charged for the appearance of the county in this matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and respective county as respondents. The petition must include the petitioner's name, the legal description of the land involved, a copy of the notice to control noxious weeds, and the date or dates on which appealed control measures were undertaken.

(c) The petition must state with specificity the grounds upon which the petitioner seeks to avoid the imposition of a lien for the cost of noxious weed control measures.

Subd. 4. **Hearing.**

(a) A hearing under subdivisions 3 to 5 must be held at the earliest practicable date, and in no event later than 90 days following the filing of the petition of objection. The hearing must be before a district judge in the county in which the land where the noxious weed control measures were undertaken is located, and must be conducted in accordance with the District Court Rules of Civil Procedure.

(b) The court shall either order that a lien representing part or all of the costs for noxious weed control measures be imposed against the land or that the landowner be relieved of responsibility for payment of noxious weed control measures undertaken.

Subd. 5. **Further appeal.** A party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

History: *1992 c 500 s 10; 2003 c 128 art 3 s 23; 2009 c 94 art 1 s 35-37*

18.85 [Repealed, 2003 c 128 art 7 s 1]

18.86 UNLAWFUL ACTS.

No person may: (1) hinder or obstruct in any way an inspector or county-designated employee in the performance of duties under sections 18.76 to 18.91 or related rules;

(2) neglect, fail, or refuse to comply with section 18.82 or related rules in the transportation and use of material or equipment infested with noxious weed propagating parts;

(3) sell material containing noxious weed propagating parts to a person who does not have a permit to transport that material or to a person who does not have a screenings permit issued in accordance with section 21.74; or

(4) neglect, fail, or refuse to comply with a general notice or an individual notice to control or eradicate noxious weeds.

History: *1992 c 500 s 12; 2003 c 128 art 3 s 24; 2009 c 94 art 1 s 38*

18.87 PENALTY.

A violation of section 18.86 or a rule adopted under that section is a misdemeanor. Inspectors, county-designated employees, or their appointed assistants are not subject to the penalties of this section for failure, neglect, or refusal to perform duties imposed on them by sections 18.76 to 18.91.

History: *1992 c 500 s 13; 2009 c 94 art 1 s 39*

18.88 NOXIOUS WEED PROGRAM FUNDING.

Subdivision 1. **County.** The county board shall pay, from the general revenue or other fund for the county, the expenses for the county agricultural inspector position or county-designated employee, for noxious weed control or eradication on all land owned by the county or on land for which the county is responsible for its maintenance and for the expenses of the appeal committee. Use of funding from grants and other sources for the administration and enforcement of the Minnesota Noxious Weed Law must be approved by the county board.

Subd. 2. **Municipality.** The municipality shall pay, from the general revenue or other fund for the municipality, the necessary expenses of the local weed inspector in the performance of duties required for noxious weed control or eradication on land owned by the municipality or on land for which the municipality is responsible for its maintenance. Use of funding from grants and other sources for the administration and enforcement of the Minnesota Noxious Weed Law must be approved by the town board or city mayor.

Subd. 3. **Funding.** Funding in the form of grants or cost sharing may be provided to the counties for the performance of their activities under section 18.81, subdivisions 1a and 1b.

History: *1992 c 500 s 14; 2009 c 94 art 1 s 40*

18.89 NOXIOUS WEED AND INVASIVE PLANT SPECIES ASSISTANCE ACCOUNT.

The noxious weed and invasive plant species assistance account is created in the agricultural fund. The account may be used to carry out the purposes of section 18.90. Any money transferred or appropriated to the account and any money received by the account as gifts or grants or other private or public funds obtained for the purposes in section 18.91 must be credited to the account. The money in the account is annually appropriated to the commissioner to implement section 18.90.

History: *2009 c 94 art 1 s 41*

18.90 GRANT PROGRAM.

(a) From funds available in the noxious weed and invasive plant species assistance account established in section 18.89, the commissioner shall administer a grant program to assist counties and municipalities and other weed management entities in the cost of implementing and maintaining noxious weed control programs and in addressing special weed control problems. The commissioner shall receive applications by counties, municipalities, weed management areas, and weed management entities for assistance under this section and, in consultation with the Noxious Weed Advisory Committee, award grants for any of the following eligible purposes:

(1) to conduct applied research to solve locally significant weed management problems;

(2) to demonstrate innovative control methods or land management practices which have the potential to reduce landowner costs to control noxious weeds or improve the effectiveness of noxious weed control;

(3) to encourage the ongoing support of weed management areas;

(4) to respond to introductions or infestations of invasive plants that threaten or potentially threaten the productivity of cropland and rangeland over a wide area;

(5) to respond to introductions or infestations of invasive plant species that threaten or potentially threaten the productivity of biodiversity of wildlife and fishery habitats on public and private lands;

(6) to respond to special weed control problems involving weeds not included in the list of noxious weeds published and distributed by the commissioner;

(7) to conduct monitoring or surveillance activities to detect, map, or determine the distribution of invasive plant

species and to determine susceptible locations for the introduction or spread of invasive plant species; and

(8) to conduct educational activities.

(b) The commissioner shall select and prioritize applications for assistance under this section based on the following considerations:

(1) the seriousness of the noxious weed or invasive plant problem or potential problem addressed by the project;

(2) the ability of the project to provide timely intervention to save current and future costs of control and eradication;

(3) the likelihood that the project will prevent or resolve the problem or increase knowledge about resolving similar problems in the future;

(4) the extent to which the project will leverage federal funds and other nonstate funds;

(5) the extent to which the applicant has made progress in addressing noxious weed or invasive plant problems;

(6) the extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;

(7) the extent to which the project will reduce the total population or area of infestation of a noxious weed;

(8) the extent to which the project uses the principles of integrated vegetation management and sound science; and

(9) other factors that the commissioner determines to be relevant.

(c) Nothing in this section may be construed to relieve a person of the duty or responsibility to control the spread of noxious weeds on lands owned and controlled by the person.

History: *2009 c 94 art 1 s 42*

18.91 ADVISORY COMMITTEE; MEMBERSHIP.

Subdivision 1. **Duties.** The commissioner shall consult with the Noxious Weed Advisory Committee to advise the commissioner concerning responsibilities under the noxious weed control program. The committee shall also evaluate species for invasiveness, difficulty of control, cost of control, benefits, and amount of injury caused by them. For each species evaluated, the committee shall recommend to the commissioner on which noxious weed list or lists, if any, the species should be placed. Species currently designated as prohibited or restricted noxious weeds must be reevaluated every three years for a recommendation on whether or not they need to remain on the noxious weed lists. Members of the committee are not entitled to reimbursement of expenses nor payment of per diem. Members shall serve two-year terms with subsequent reappointment by the commissioner.

Subd. 2. **Membership.** The commissioner shall appoint members, which shall include representatives from the following:

(1) horticultural science, agronomy, and forestry at the University of Minnesota;

(2) the nursery and landscape industry in Minnesota;

(3) the seed industry in Minnesota;

(4) the Department of Agriculture;

(5) the Department of Natural Resources;

(6) a conservation organization;

(7) an environmental organization;

(8) at least two farm organizations;

(9) the county agricultural inspectors;

(10) city, township, and county governments;

(11) the Department of Transportation;

(12) the University of Minnesota Extension;

(13) the timber and forestry industry in Minnesota;

(14) the Board of Water and Soil Resources; and

(15) soil and water conservation districts.

Subd. 3. **Additional duties.** The committee shall conduct evaluations of terrestrial plant species to recommend if they need to be designated as noxious weeds and into which noxious weed classification they should be designated, advise the commissioner on the implementation of the Minnesota Noxious Weed Law, and assist the commissioner in the development of management criteria for each noxious weed category.

Subd. 4. **Organization.** The committee shall select a chair from its membership. Meetings of the committee may be called by or at the direction of the commissioner or upon direction of the chair.

Subd. 5. **Expiration.** Notwithstanding section 15.059, subdivision 5, the committee expires June 30, 2013.

History: *2009 c 94 art 1 s 43*