

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATION

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Agriculture
(Agency or Board)

Regulation No. Agr 101 thru 106 (new)

Subject: Shade Tree Disease Control

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

JUN 14 1974 11:15 am

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 6-14-74

Rev. 9-72

ADMIN. 1000
3

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Mike Miller
Office of the Attorney General
Department of Administration

DATE: June 3, 1974

FROM : Tom Kalitowski
Special Assistant Attorney General

T.K.

SUBJECT: IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF AGRICULTURE RELATING TO SHADE TREE DISEASES

Please find attached for your approval the following sets of documents relating to the subject:

1. a. 3 copies of the Order Adopting Rules
   b. 5 copies of the New Rules to be Adopted

2. 5 copies of the Rules as Proposed at the Hearing

3. 3 copies each of the following documents:

   a. Statement of Compliance with Rule Making Procedures
   b. Order of Hearing
   c. Statement of Need
   d. Notice of Hearing
   e. Certification of Mailing List
   f. Affidavit of Acquisition of Mailing List
   g. Affidavit of Mailing
   h. Finding of Fact

4. Transcript of Public Hearing and Hearing Mailing List

TK/jb
Attachments

MINNESOTA DEPARTMENT OF AGRICULTURE
STATE OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

Proposed April 5, 1974

Rules and Regulations of
The Department of Agriculture

CHAPTER 4: AGR 101 - 120
SHADE TREE DISEASE CONTROL

AGR 101 Statement of Public Policy. It is the purpose of the rules and regulations contained herein to carry out and enforce the provisions of Laws of Minnesota, 1974, Chapter 355, Section 66. An epidemic of Dutch elm disease and oak wilt disease is occurring in the seven county metropolitan area. Trees are an important element in the healthful environment of the seven county metropolitan area, because of the concentration of population in the area. The incidence of the diseases appears to be greater in the seven county metropolitan area than it does in other areas of the state, therefore, it is necessary to take extraordinary measures to control such diseases.

AGR 102 Definitions. As used in this regulation the following words and terms shall have the meanings given:

(a) "Shade tree" means an oak or elm situated such that it's primary value is derived from its function as an ornamental tree growing in close association with structures and people.

(b) "Shade tree disease" means Dutch elm disease (Ceratocystis ulmi) or oak wilt disease (Ceratocystis fagacearum).

(c) "Commissioner" means the commissioner of Agriculture.

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

(e) "Municipality" means any city or any town exercising municipal powers pursuant to Minnesota Statutes, Section 368.01, or any general or special law, located in the metropolitan area or any special park district as organized under Minnesota Statutes, Chapter 398, or any special purpose park district organized under the city charter, or any portion of a county in such metro area located outside the geographic boundaries of a city or town exercising municipal powers and any municipality located outside the metropolitan area which petitions to and has consent of the commissioner to come within the provisions of this act.

(f) "Shade 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 limits of all laws, rules, and regulations governing this control and is so certified by the commissioner.

AGR 103 Shade Tree Inspector Employment and Qualifications

(a) A municipality will employ a shade tree inspector or will employ jointly with one or more municipalities a tree inspector as provided by the joint powers act.

(b) The employment period of a shade tree inspector will be full time with his primary duties directed to shade tree disease control.

(c) Provisional appointments

(1) A municipality may provisionally appoint a shade tree inspector for a period of not more than 6 months. This appointment is dependent on approval by the commissioner after an interview of

the appointee to determine his competence. The provisional appointment cannot be extended and the appointee must either pass the shade tree inspectors examination or successfully complete the next training course approved by the commissioner to be certified as a shade tree inspector.

(d) A shade tree inspector must be able to demonstrate the following qualifications:

(1) Identify all native tree species with or without leaves common to his work area and all cut trees with bark intact.

(2) Recognize field symptoms of oak wilt disease and Dutch elm disease.

(3) Distinguish between common insect damage and diseases of oak and elm trees.

(4) Know the proper method of collecting samples for disease diagnosis.

(5) Knowledge and understanding of the shade tree disease relative to it's biology and transmission related to the required control program.

(6) Distinguish between dead and live trees or portions of live trees which may be dead if the bark is intact at all seasons of the year.

(7) Know and be familiar with all laws, rules, and regulations relative to shade tree disease.

(e) If a municipality fails to appoint a tree inspector, the appointment may be made by the commissioner pursuant to Subdivision 5a. An inspector appointed by the commissioner shall be paid for a minimum of 90 days even though the municipality may appoint their own inspector prior to the expiration of 90 days. However, this provision shall not apply to an inspector whose employment is suspended or terminated for cause.

AGR 104 Certification of A Shade Tree Inspector

(a) Certification of shade tree inspectors shall be accomplished by one of the following methods:

(1) Each applicant must pass an examination prescribed by the commissioner for the purpose of determining that the applicant possesses the necessary qualifications to be certified. The examination may be written, oral, and a laboratory or field test. Each applicant shall be notified by the commissioner by mail of the time and date of such examination.

(2) Applicants can be certified if they successfully complete a training course approved by the commissioner.

(b) After certification, a shade tree inspector shall be required to attend annually at least one program of continuing education in research, control measures and laws, rules and regulations pertaining to shade tree disease. Failure to attend such programs as required may be grounds for revocation, termination, suspension, or refusal to renew said certification.

AGR 105 Decertification of Shade Tree Inspectors. The commissioner may upon notice and hearing decertify any tree inspector for cause as provided in the law, rules, and regulations.

AGR 106 Shade Tree Disease Control Program

(a) Ordinance. If a municipality adopts an ordinance, it must be determined by the commissioner to be equal to or more stringent than the rules and regulations of the commissioner or the rules and regulations of the commissioner shall supercede the ordinance.

(b) Methods of indentifying diseased shade trees. Diseased shade trees will be identified by generally accepted field symptoms such as leaves wilting, yellowing, etc. Confirmation when determined to be

necessary will be made by the Minnesota Department of Agriculture, Dutch elm disease laboratory, or other laboratory recognized by the commissioner.

(d) Dutch elm or oak wilt control

(1) Control of Dutch elm disease must include the following:

(aa) Tree inventory. A tree inventory must be made to determine number of elms and other species on both public and private property. This should be a permanent record and should be reported to the Department of Agriculture.

(bb) Sanitation. Sanitation is the major element in any Dutch elm disease control program because it is needed to eliminate elm bark beetles, diseased trees and dead or weakened elm wood arising from any cause. This must include trees on private property.

(i) Prior to April 15, check all alleys and yards for elm wood or logs that could serve as bark beetle breeding sites and require removal, or de-barking if wood is to be retained. Before any tree inspector shall make inspections on private property within a municipality, it shall be the duty of the municipality to attempt to give notice of said inspection to all affected residents either through individual, oral or written notice or by publishing said notice in a local newspaper.

(ii) Check all elm trees at least twice during the growing season (by July 1 and August 15) to look for Dutch elm disease symptoms.

(iii) Remove by burning, burying, chipping, or utilizing by methods approved by the commissioner, diseased or dead elm trees or any above ground parts thereof within 20 days.

(cc) Root Graft Control. Use chemical or trenching to prevent root graft spread of Dutch elm disease. Trees closer than 50

feet are likely to be grafted together.

(dd) Records. Keep records of the number of diseased trees, trees removed, number of samples sent in for diagnosis, and the results whether positive or negative. Records are essential to the evaulation, follow-up and enforcement of control measures.

(2) The oak wilt disease control program must include the following:

(aa) Tree Inventory. A tree inventory must be made to determine the number of oaks and other species on both public and private property. This should be a permanent record and should be reported to the Department of Agriculture.

(bb) Sanitation and Prevention

Oak wilt control measures consists of preventing the disease from spreading. These include the prevention of unnecessary wounding, prompt treatment of wounds during the susceptible season, severing root grafts either mechanically or chemically, and the killing and removal of diseased trees.

(i) Prune oaks carefully during the winter whenever possible and only after July 15. Avoid unnecessary wounding of oaks at any time. Treat all wounds promptly and thoroughly with wound treatment compounds to prevent insect infestation and to promote healing.

(ii) Kill and remove diseased trees. Diseased Red and Black Oaks should be girdled as soon as possible. This will speed up bark drying and reduces or prevents spore mat formation. Do not remove the trees until winter, however, because surrounding trees may be wounded in the process.

(iii) Use diseased wood for firewood or otherwise destroy it before the following spring. Trees may also be harvested for lumber, since the outer annual rings usually are slabbed off. But the slabs should be destroyed. Stumps also should be burned and debarked.

(cc) Root Graft Control. Use Vapam (SMDC) or trenching to prevent root graft spread of oak wilt. Trees closer than 50 feet are likely to be grafted together.

(dd) Records. Keep records of the number of diseased trees, trees removed, number of samples sent in for diagnosis, and the results whether positive or negative. Records are essential to the evaluation, follow-up and enforcement of control measures.

(e) Records. Shade tree disease program records must be kept by each municipality and be available for examination at any time by the commissioner. A yearly report of the summation of these records must be made to the commissioner by December 1 and this report must include the following:

(1) Monies expended on personnel, equipment, and contracts listed separately.

(2) Man hours spent on tree inventory, sanitation, and any chemical control measures.

(3) The total number of trees removed on both public and private property.

(4) Number of removal notices issued where the diseased tree was on private property.

(5) Number of notices issued for removal or wood which may be a hazard in the spread of a shade tree disease.

(6) The report must include the beginning inventory and indicate the number of trees removed, both diseased and others.

(f) Program review

(1) Each January 1st, municipalities must submit their proposed shade tree disease control program to the commissioner for review to determine if it meets or exceeds the requirements of the law and any rules and regulations related thereto.

(2) The commissioner shall complete this review and notify the municipalities of his approval prior to March 1.

(3) The commissioner shall make the final determination of the adequacy of any municipal program.

(4) The commissioner may require changes or improvements at anytime which he feels are needed in any municipal program.

AGR 107-120 Reserved for future use

Filed:

MINNESOTA DEPARTMENT OF AGRICULTURE
STATE OFFICE BUILDING
ST. PAUL, MINNESOTA 55155

Rules and Regulations of
The Department of Agriculture

CHAPTER 4: AGR 101 - 120

SHADE TREE DISEASE CONTROL

AGR 101 Statement of Public Policy. It is the purpose of the rules and regulations contained herein to carry out and enforce the provisions of Laws of Minnesota, 1974, Chapter 355, Section 66. An epidemic of Dutch elm disease and oak wilt disease is occurring in the seven county metropolitan area. Trees are an important element in the healthful environment of the seven county metropolitan area, because of the concentration of population in the area. The impact of the diseases appears to be greater in the seven county metropolitan area than it does in other areas of the state, therefore, it is necessary to take extraordinary measures to control such diseases.

AGR 102 Definitions. As used in this regulation the following words and terms shall have the meanings given:

(a) "Shade tree" means any oak or elm tree situated in a disease control area approved by the Commissioner.

(b) "Shade tree disease" means Dutch elm disease caused by Ceratocystis ulmi, or oak wilt disease caused by Ceratocystis fagacearum.

(c) "Commissioner" means the Commissioner of Agriculture.

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

(e) "Municipality" means any city or any town exercising municipal powers pursuant to Minnesota Statutes, Section 368.01, or any general or special law, located in the metropolitan area or any special park district as organized under Minnesota Statutes, Chapter 398, or any special purpose park district organized

under the city charter, or any portion of a county in such metropolitan area located outside the geographic boundaries of a city or town exercising municipal powers and any municipality located outside the metropolitan area which petitions to and has consent of the Commissioner to come within the provisions of this act.

NOTE: It is the determination of the Commissioner that any county in the metropolitan area shall for the purposes of these regulations and for Minnesota Laws 1974, Chapter 355, Section 66, be considered a "municipality" for any and all land area which is owned by said county.

(f) "Tree inspector" means a person who has the necessary qualifications to property plan, direct and supervise all requirements for controlling shade tree disease in one or more governmental subdivisions within the limits of all laws, rules, and regulations governing this control and is so certified by the Commissioner.

(g) "Disease control area" means an area approved by the Commissioner within which a municipality will conduct a shade tree disease control program.

AGR 103 Tree Inspector Employment and Qualifications.

(a) A municipality will employ or retain on a continuing basis a tree inspector or will employ or retain jointly with one or more municipalities a tree inspector as provided by M. S. 471.59.

(b) Provisional appointments

(1) A municipality may provisionally appoint a tree inspector for a period of not more than 6 months.

(2) This appointment is dependent on approval by the Commissioner after determining the competence of the appointee.

(3) The provisional appointment cannot be extended and the appointee must either pass the tree inspectors examination or successfully complete the next training course approved by the Commissioner to be certified as a tree inspector.

(4) The provisional appointment may be withdrawn by the Commissioner upon notice and hearing for cause.

(c) A tree inspector must be able to demonstrate the following qualifications:

(1) Identify all native tree species common to his work area with or without leaves and all felled or down trees with bark intact.

(2) Distinguish oak wilt and Dutch elm disease from all other tree problems of oak and elm.

(3) Know the proper method of collecting samples for disease diagnosis.

(4) Know and understand the biology of oak wilt and Dutch elm disease.

(5) Know the appropriate Minnesota Laws and rules and regulations relative to oak wilt and Dutch elm disease.

(6) Know the approved control methods for oak wilt and Dutch elm disease.

(d) If a municipality fails to appoint a tree inspector by June 13, 1974, an appointment may be made by the Commissioner pursuant to Laws of Minnesota, 1974, Chapter 355, Section 66. 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 their own inspector prior to the expiration of 90 days. However, this provision shall not apply to an inspector whose employment is suspended or terminated for cause.

AGR 104 Certification of Tree Inspector.

(a) Certification of tree inspectors shall be accomplished by their passing an examination prescribed by the Commissioner for the purpose of determining that the applicant possesses the necessary qualifications. Each applicant shall be notified by the Commissioner by mail of the time and date of such examination. The applicant and the employing municipality will be notified of the results of the examination within 15 days.

(b) After certification, a tree inspector shall be required to attend annually at least one program of continuing education as approved by the Commissioner. Failure to attend such programs as required may be grounds for revocation, termination, or suspension, of certification.

AGR 105 Decertification of Tree Inspectors. The Commissioner may upon notice and hearing decertify any tree inspector for cause as provided in the law.

AGR 106 Shade Tree Disease Control Program. The tree disease control program of all municipalities affected by these regulations shall include as a minimum the

following elements:

(a) Control area. Each municipality shall designate and submit for approval by the Commissioner a disease control area.

(b) Program plan. Each municipality shall prepare a tree disease control program plan that details the manner in which these regulations will be fulfilled.

(c) Methods of identifying diseased shade trees. Diseased shade trees will be identified by generally accepted field symptoms such as wilting, or yellowing of leaves, or staining of inner bark. Confirmation when determined to be necessary, will be made by the Minnesota Department of Agriculture, tree disease laboratory, or other laboratory recognized by the Commissioner.

(d) Dutch elm disease and oak wilt control

(1) Tree inventory. A reasonable estimate of elms, oaks, and other tree species on both public and private property must be made and recorded. This should be a permanent record and reported to the Department of Agriculture.

(2) Dutch elm disease control must include the following:

(aa) Sanitation. Sanitation is the major element in any Dutch elm disease control program because it is needed to eliminate elm bark beetles, diseased trees, and dead or weakened elm wood arising from any cause. This must include trees on private property.

(i) Prior to April 15, check all public and private properties for elm wood or logs that could serve as bark beetle breeding sites and require removal, or de-barking if wood is to be retained. Before making any inspections on private property within a municipality, it shall be the duty of the municipality to attempt to give notice of said inspection to all affected residents either through individual, oral or written notice or by publishing said notice in a local newspaper.

(ii) Check all elm trees at least twice during the growing season (by July 1 and August 15) for Dutch elm disease symptoms.

(iii) Remove and properly dispose of diseased or dead elm

trees or any above ground parts thereof within 20 days after notification in accordance with prescribed methods approved by the Commissioner and consistant with applicable air quality and solid waste regulations.

(bb) Root Graft Control. Disrupt common root systems by chemical or mechanical means as approved by the Commissioner to prevent root graft spread of Dutch elm disease.

(3) Oak wilt. Oak wilt control involves both root graft treatment and prevention of infection by oak wilt spores carried by insects or other agents (overland spread).

(aa) Use chemical or mechanical means to disrupt root graft transmission of the oak wilt fungus as approved by the Commissioner.

(bb) Overland spread

(i) Avoid pruning or other mechanical damage during the most susceptible period in May and June. Use tree wound dressings if wounding is unavoidable during susceptible period.

(ii) Girdle diseased trees as soon as they are detected to reduce spore mat formation. Chemical or mechanical root disruption should precede girdling if root graft spread is likely to occur.

(iii) Eradicate or destroy the following diseased oaks: northern red oak, Quercus rubra, northern pin oak, Quercus ellipsoidalis, black oak, Quercus velutina, and scarlet oak, Quercus coccinea, in accordance with prescribed methods approved by the Commissioner and consistent with applicable air quality and solid waste regulations.

(e) Records. Shade tree disease program records must be kept by each municipality and be available for examination at any time by the Commissioner. A yearly report of the summation of these records must be made to the Commissioner by December 1 and this report should include the following:

(1) Monies expended on personnel, equipment, and contracts listed separately.

(2) Man hours spent on tree inventory, sanitation, and any chemical control measures.

(3) Number of samples submitted for diagnosis, and the results, the

number of diseased trees and the number of trees removed.

(4) Number of removal notices issued for the diseased tree located on private property.

(5) Number of notices issued for removal of wood which may be a hazard in the spread of a shade tree disease.

(6) The report must include the beginning inventory and indicate the number of trees removed, both diseased and others.

(f) Program Review

(1) Prior to June 13, 1974 and annually thereafter by January 1st municipalities must submit their shade tree disease control program plan to the Commissioner for review to determine if it meets or exceeds the requirements of the law and any rules and regulations related thereto.

(2) The Commissioner shall complete this review and notify the municipalities of his approval within 15 days.

(3) Final determination of municipal program compliance with these rules and regulations shall rest with the Commissioner.

(4) The Commissioner may require changes or improvements at anytime he determines they are needed in any municipal program in order to obtain compliance with these rules and regulations.

AGR 107 - 120 Reserved for future use

Filed:

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
JUN 14 1974 11:15 am
BY Eda Staudenmaier
AUTH. SIGNATURE EJ

APPROVED AS TO FORM AND LEGALITY
June 14 1974
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

10:30
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 14 1974
Arlen I. Erdahl
Secretary of State

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 7th day of May, 1974, at 10:00 A.M., Room 57, State Office Building, St. Paul, Minnesota, after proper notice required by M. S. 1971, Section 15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose, and to all members of the Minnesota Legislature.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards and criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified as Rules of the State Department of Agriculture Relating to Shade Tree Diseases, are adopted this 3rd day of June 1974, pursuant to authority vested in me by M. S. 1971, Section 15.0412 and Laws of Minnesota 1974, Chapter 355, Section 66.

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

ORDER OF HEARING

To effectively implement the Control of Diseases in Shade Trees, the Minnesota Commissioner of Agriculture deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by Laws 1974, Chapter 355, Section 66, Subdivision 2.

NOW, THEREFORE, IT IS ORDERED this 3rd day of April, 1974, that a public hearing on the proposed rules captioned above be held in Room 57, Ground Floor, State Office Building, St. Paul, Minnesota, on Tuesday, May 7, 1974, commencing at 10:00 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1971, Section 15.0412, Subdivision 4, in the above entitled matter in Room 57, Ground Floor, State Office Building, St. Paul, Minnesota, May 7, 1974, commencing at 10:00 A.M., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner proposes to adopt rules relating to Shade Tree Diseases as authorized and directed by Laws of Minnesota 1974, Chapter 355, Section 66. The proposed rules describe methods for control of shade tree diseases, qualifications of tree inspectors, procedures for inspection notices and maintenance of records of inspection programs of municipalities and other subdivisions of State Government.

Copies of the proposed rules may be obtained by writing to the Office of the Commissioner, 420 State Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

Dated April 3, 1974

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

CERTIFICATE

I hereby certify that the attached 340 labels & 2 sheets constitute the complete lists of persons, associations, and other interested groups who as of 4:15 o'clock P.M., this 2nd day of April, 1974, have requested pursuant to M.S. 1971, Sec. 15.0421 that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Arlen D. Erdahl

By Ceil Dirlam

AFFIDAVIT

Sylvia Garcia, being duly sworn on oath deposes and says:

1) That she is an employee of the Agriculture Department of the State of Minnesota.

2) That on the 2nd day of April, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations and other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 2nd day of April, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Sylvia Garcia

Subscribed and sworn to before me
this 4th day of April 1974.
Warren Erickson

Notary Public,
_____ County, Minnesota
My Commission expires _____.

WARREN ERICKSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 12, 1976

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

AFFIDAVIT OF MAILING

Joyce Walkosz, being first duly sworn, deposes and says:

That on the 3rd day of April, 1974, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by deposition in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons listed on the attached certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Joyce Walkosz

Subscribed and sworn to before me this 4th day of April, 1974.

Warren Erickson

WARREN ERICKSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 12, 1976

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Adoption of Rules of the State Department of Agriculture Relating to Shade Tree Diseases.

FINDINGS OF FACT

The above entitled matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 7th day of May, 1974, at 10:00 A.M., Room 57, State Office Building, St. Paul, Minnesota, after proper notice required by M. S. 1971, Section 15.0412 was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose, and to all members of the Minnesota Legislature.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. That an epidemic of oak wilt and Dutch elm disease is occurring in the seven county metropolitan area.

2. That the economic and environmental importance of trees and the diseases impact is greater in this area because of the concentration of population.

3. That extraordinary measures are needed to control oak wilt and Dutch elm disease.

4. That a uniform, coordinated effort throughout the metropolitan area is needed to meet this tree disease problem.

5. That adoption of rules by the Minnesota Department of Agriculture will provide the qualified municipal personnel required to effectively conduct a control program.

6. That adopted rules will result in municipal programs that will be uniform and scientifically sound.

7. That by slowing down tree losses communities can utilize and sell the wood at a manageable rate and help defray the cost of a control program.

8. That a successful tree disease control program will extend the usefulness and enjoyment of trees and allow communities and individuals to plant other tree species not susceptable to oak wilt and Dutch elm disease.

9. That a successful tree disease program will prevent large tree losses that would burden disposal systems, solid waste sites and other municipal programs.

10. That the state of Minnesota, Legislature, municipalities and the public want to control the tree diseases.

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed
Adoption of Rules of the State
Department of Agriculture Re-
lating to Shade Tree Diseases.

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules of the Minnesota Department of Agriculture.

The need to adopt these rules arises because of legislative mandate.

COMMISSIONER OF AGRICULTURE

Jon Wefald

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Thomas Kalitowski do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Thomas Kalitowski

Special Assistant Attorney General

Dated: June 3, 1974