

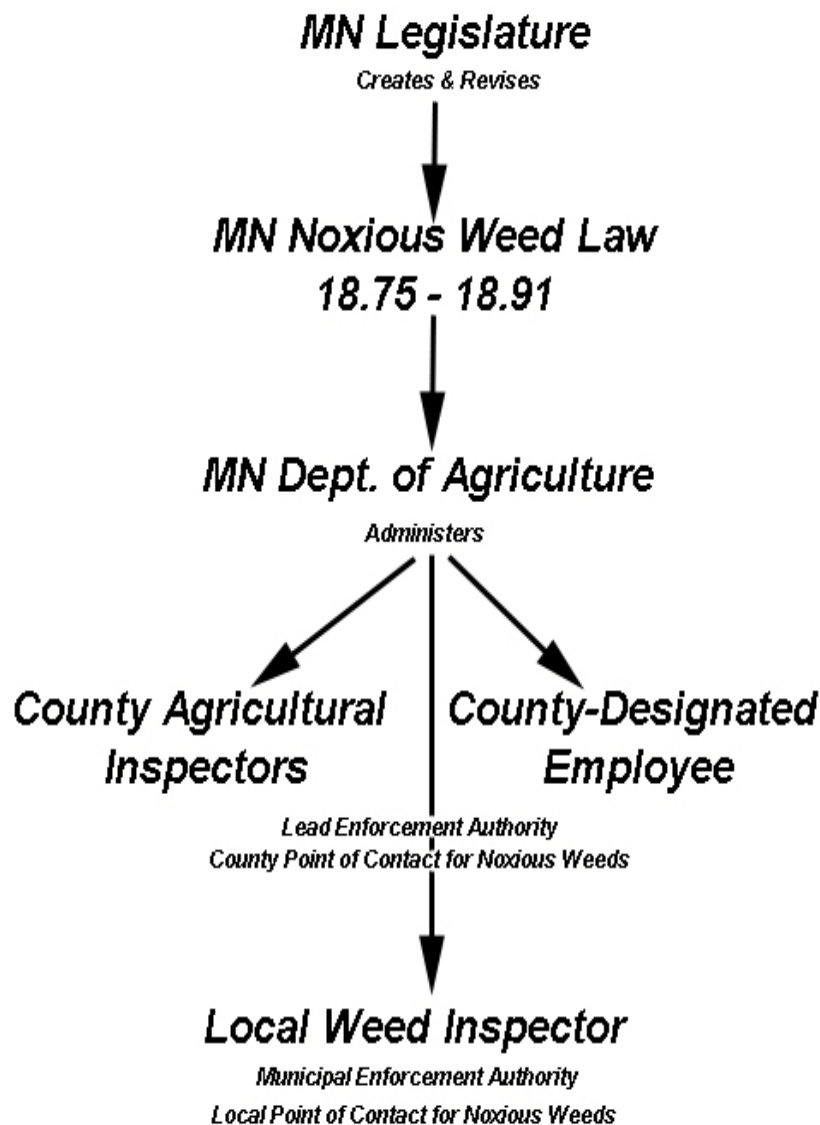
**LOCAL WEED
INSPECTOR'S
GUIDE
FOR
ENFORCEMENT OF
THE MINNESOTA
NOXIOUS WEED LAW**

PRODUCED BY THE

**SEED AND NOXIOUS WEED UNIT
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INTRODUCTION

The Minnesota Department of Agriculture has developed this handbook for use by local weed inspectors. Each township supervisor and city mayor becomes a local weed inspector for their political subdivision when they take their oath of office. This handbook is intended to inform local inspectors of their duties in the enforcement of the Minnesota Noxious Weed Law. It is not a step by step guide as provided in the Minnesota Noxious Weed Law Standard Operating Procedures (WSOP) booklet which can be obtained through your county agricultural inspector, county-designated employee, or the MDA Noxious Weed Program. We encourage all township supervisors, city mayors, or their appointed assistants to read this handbook and the WSOP.



A) WHAT IS A LOCAL WEED INSPECTOR?

“Inspector” as defined in the Minnesota Noxious Weed Law: *“Inspector means the commissioner (Department of Agriculture), agent of the commissioner, county agricultural inspector, county-designated employee, local weed inspector, or assistant weed inspector.”*

Minnesota Statutes 2009, section 18.80, specifies local weed inspectors in subdivisions 2 & 3:

“Subdivision 2. [LOCAL WEED INSPECTORS.] *The supervisors of each town board and the mayor of each city shall act as the local weed inspectors within their respective municipalities.”*

“Subdivision 3. [ASSISTANT WEED INSPECTORS.] *A municipality may appoint one or more assistants to act 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.”*

B) WHAT ARE THE DUTIES OF THE LOCAL WEED INSPECTOR?

Minnesota Statutes 2009, section 18.81, lists the duties of the local weed inspector in subdivision 2:

Subdivision 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;

(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.

C) WHERE DO LOCAL WEED INSPECTORS OBTAIN THE AUTHORITY TO DO THEIR JOB?

Minnesota Statutes 2009, section 18.79, lists specific authorities granted to county agricultural inspectors and local weed inspectors in subdivisions 3 and 5:

"Subdivision 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."

"Subdivision 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."

D) WHAT IS A COUNTY AGRICULTURAL INSPECTOR?

The county agricultural inspector position was established to provide leadership and supervision in the enforcement of the noxious weed law in each county. By law they are responsible for seeing that the noxious weed law is carried out within their jurisdiction. They serve as the primary technical support to local weed inspectors in the areas of enforcement procedures and public relations. Without their willing and able leadership, it is nearly impossible for local weed inspectors to fulfill their responsibilities.

County agricultural inspectors have other duties that they must carry out as well. Although they are often referred to as the "county weed inspector," the noxious weed law enforcement responsibility is only about one third to one half of the job. Their other duties are equally as important and they are not shared with county designated employees or local weed inspectors.

E) WHAT IS A COUNTY-DESIGNATED EMPLOYEE?

In 2009, the Minnesota Legislature, at the request of the Association of Minnesota Counties, added a new authorized agent category to the noxious weed law. County-designated employees are existing employees of the county that are given the same primary responsibilities of noxious weed enforcement granted to a county agricultural inspector. Currently, the majority of MN counties have a county agricultural inspector on staff, but with many counties undergoing severe budget cuts in recent years, more counties may prefer to cut costs by designating a current employee to handle weed enforcement issues. Although costs may be saved from a county budgeting perspective by simply designating an existing employee to serve as the county weed inspector, if the county does not adequately budget time and resources for this position, the citizens of the county will lose a wealth of information and services that county agricultural inspectors have historically provided when it comes to noxious and invasive weed management and outreach. Counties opting to assign a designated employee to serve as an inspector, must make the identity of that person available to the public.

Minnesota Statutes 2009, section 18.81, Subdivisions 1a and 1b, lists the duties of the county agricultural inspectors and county-designated employees. They are as follows:

"Subdivision 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.*

Subdivision 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 (**Minnesota Noxious Weed Law**) and rules adopted under those sections are carried out within the inspector's jurisdiction.*
- (2) to see that sections 21.80 to 21.92 (**Minnesota Seed Law**) and rules adopted under those sections are carried out within their jurisdiction;*
- (3) to see that sections 21.71 to 21.78 (**Minnesota Screenings Act**) and rules adopted under those sections are carried out within their 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;*
- (9) to be the primary contact in the county for all plant biological control agents.*

F) SUGGESTIONS FOR AN EFFECTIVE LOCAL NOXIOUS WEED INSPECTION PROGRAM

1. Local weed inspectors should make two tours of their municipality each year. The first tour should be made by the third week in June to determine if there are any noxious weed problems in the municipality. The first contact with the landowner and/or occupant or the manager of public lands about a noxious weed problem should be made during or shortly after this tour. A postcard, letter or personal visit to the landowner and/or occupant or the manager of public land can accomplish informal notification. Normally, about 80% of those contacted comply with an informal contact. The second tour should be made in mid to late August to see if the noxious weed problems were properly taken care of and to note those areas where emphasis is needed the following year.
2. The law provides for an individual notice to be served by local weed inspectors on the landowner and/or occupant or the manager of public lands located within their jurisdiction. If no control or eradication is undertaken after being informally notified of the problem, then an individual notice may need to be served. The individual notice is the first step in a series of legal procedures with the intended purpose of forcing the landowner and/or occupant or the manager of public lands to comply. For assistance in serving an individual notice and other legal procedures, contact your county agricultural inspector or county-designated employee.
3. When serving an individual notice, do not recommend methods of control or eradication that are illegal, untested, or ineffective. If you need advice on control methods, contact the MDA Noxious and Invasive Weed Program, local U of M extension offices or the county agricultural inspector/county-designated employee.
4. Contact landowners, occupants, or managers of public lands in February or March about planning a noxious weed control program for problems that were unsatisfactorily controlled the previous growing season. These types of problems should have been observed the previous fall during the second tour. If you wait until they have made plans on their own, you may see the same kind of a control effort as the year before.

**** Communication with state and federal land managers is crucial to successful enforcement. Make an effort to get to know these folks in your jurisdiction. In most cases where issues arise between local inspectors and state/federal land managers, no prior communication has been made between either party. Remember, state and federal lands are managed for specific purposes and they are not intentionally "spreading all the weeds in the county". Each operating unit of state and federal lands has a general management plan. By getting to know the primary land managers for these units, you can become familiar with their management plans and goals and provide your input so that their management plans also include your weed control expectations.

***** If you're having trouble communicating with a state or federal land manager, contact your county agricultural inspector or county-designated employee. They have contact numbers for Tribal, DNR, DOT, and U.S. Fish and Wildlife Service personnel operating in your jurisdiction and can help mediate any potential disputes.

5. Beware of disputes between neighbors. Attempts may be made to get you involved by demanding that you enforce the noxious weed law when it is not appropriate to do so. If you are unsure of what to do in these situations, consult your county agricultural inspector or county-designated employee.
6. Promptly investigate each complaint before contacting the landowner and/or occupant or the manager of public land. The complaint must be verified before you should take any action. If you have seen the problem first hand, it is unnecessary to reveal the name of the person complaining. In many cases, it is unlawful to reveal the person's name anyway.
7. If an individual notice is served, you should be prepared to follow through by hiring the control work done if the person served does not voluntarily comply. It is a misdemeanor violation for anyone to "neglect, fail, or refuse to comply with a general notice or an individual notice to control or eradicate noxious weeds". In some cases, it may be advisable to administer enforcement actions through judicial proceedings. Contact your county agricultural inspector or county-designated employee to discuss your options.
8. When dealing with noxious weed issues in a standing crop, you will need the assistance of your county agricultural inspector or county-designated employee. They will assist you with setting-up an appeal board and discussing any enforcement with the county attorney. In most cases, it is not advisable to destroy a standing crop the first year that the noxious weed issue is discovered. The landowner or occupant needs to be contacted and made aware of the problem and the consequences if they do not improve their farming practices the following year. An individual notice can be served the first year of discovering a weed problem in a standing crop.
9. A digital camera is a great tool for documenting noxious weed violations. When performing an investigation, make sure that you have recorded and documented pertinent information. Keep a file on all investigations and retain those records for at least three years. Most violations will be resolved quickly, but good record keeping is a great asset for repeat offenders.
8. By following a planned and effective enforcement program, the number of violations will actually decrease over the years and your job as a local weed inspector can become easier.

For more information concerning the Minnesota Noxious Weed Law and statewide listed noxious weeds, please visit:
<http://www.mda.state.mn.us/weedcontrol> .

Noxious weed enforcement forms can also be downloaded or printed from this web site.