

STATE OF MINNESOTA  
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED AMENDMENTS TO )  
THE RULES OF THE DEPARTMENT OF AGRICULTURE ) STATEMENT OF NEED  
GOVERNING RESTRICTED-USE PESTICIDES ) AND REASONABLENESS  
MINNESOTA RULES 1505.1070 THROUGH 1505.1090 )

I. INTRODUCTION

The subject of this rulemaking is the proposed repeal of restrictions imposed by the Minnesota Department of Agriculture on the sale and use of LINDANE. Minnesota Statutes, section 18A.43, subdivision 1, authorizes the Department to establish rules for enforcement of the sale and use of pesticides in Minnesota.

The Commissioner of Agriculture has determined that the proposed amendment to the rules would be non-controversial in nature based on favorable consultations with representatives of the pesticide industry and governmental officials. Therefore, adoption of this amendment will be in accordance with Minnesota Statutes, sections 14.21 - 14.28. Accordingly, the rulemaking proceedings on the proposed amendment to the rules are governed by that statute and no hearing will be conducted unless, on or before September 18, 1984, twenty-five (25) or more persons submit to the Department a written request for such a hearing. This Statement of Need and Reasonableness was completed prior to publication of the Notice of Intent to Adopt Rules Without a Public Hearing in accordance with Minnesota Statutes, section 14.23.

II. OVERVIEW

In 1969, the State of Minnesota imposed restrictions on a group of pesticides, most of which were chlorinated hydrocarbon compounds. The following pesticides are designated as "restricted-use pesticides" in this state:

DDT  
DDD and TDE  
Dieldrin  
Endrin  
Heptachlor  
Lindane  
Aldrin  
Inorganic arsenicals  
Mercury

The state restrictions were above and beyond federal restrictions at that time. Later, as new research information became available, restrictions were placed on these pesticides by the federal government including certain product suspensions and cancellations of registrations. When the Minnesota Department of Agriculture revised the rules relating to pesticide use in July, 1978, the state restrictions on most of the aforementioned pesticides were dropped so as to conform with federal regulations and restrictions. However, because the federal government had not instituted a formal review process on the use of products containing LINDANE, as it had with the other above-mentioned pesticides, the state retained restrictions for products containing LINDANE. Since that time, the U.S. Environmental Protection Agency has instituted a review process which has and will continue to limit the permissible uses of LINDANE products.

The proposed rule change would delete the state restrictions on the sale and use of LINDANE in Minnesota. Dropping state restrictions on LINDANE will enable the Department to carry out its statutory responsibilities with regard to the regulation of pesticides and would conform with federally-approved labeling for LINDANE products. Minnesota is the only state that has restrictions on LINDANE beyond federally-approved labeling. Users of LINDANE products are purchasing LINDANE in bordering states for use in Minnesota. The Department, at this time, sees no substantial harm resulting from the use of LINDANE under the federal label. The U.S. Environmental Protection Agency, which has the staff and resources needed, is evaluating LINDANE products and is in the process of imposing restrictions which will apply to all states should it become necessary to protect health and the environment. The U.S. EPA will continue to monitor the effects of using LINDANE and further evaluate appropriate research data.

The proposed change in the rules would allow producers to sell LINDANE products to retailers for uses allowed by federal labeling requirements. Retailers would be able to sell LINDANE products without purchasing a restricted-use pesticide dealer's license. Farmers and other commercial users would be allowed to use LINDANE products according to the label directions. The proposed change would lend itself to uniformity among Minnesota and all other states. The present restrictions have a detrimental effect on growers in Minnesota. Farmers and other applicators are deprived of the benefits derived from the use of LINDANE under the federally-approved label that is available in other states. User groups have asked that the Minnesota-imposed restrictions on the sale and use of LINDANE be rescinded.

### III. SMALL BUSINESS IMPACT

Minnesota Statutes, section 14.115, requires that the impact on small business be addressed concerning the proposed amendments to Minnesota Rules 1505.1070 - 1505.1090.

Under the present provisions of the Minnesota Pesticide Control Law, Minnesota Statutes, sections 18A.21 - 18A.45, dealers wanting to sell restricted-use pesticides, most of which have been so classified by the U.S. Environmental Protection Agency, are required to secure a dealer's license. At present, the Department licenses approximately 530 dealers who offer restricted-use pesticides for sale. Most of these dealers would be considered small businesses, according to Minnesota Statutes, section 14.115, subdivision 1. A large portion of these dealers sell only LINDANE products.

Dealers must either take out a license to sell LINDANE to users in the area or refuse to carry LINDANE products. Users must then go elsewhere, including neighboring states to secure LINDANE products.

Small businesses are currently adversely impacted if they sell LINDANE products. Each year they are required to make an application for a restricted-use pesticide dealer's license, pay a yearly \$75.00 licensing fee, and maintain specific records detailing the sale of LINDANE. They also lose business to neighboring states where users can purchase LINDANE products from dealers not required to secure a dealer's license. The proposed rule change would alleviate this hardship for dealers selling LINDANE.

### IV. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE RULES

#### 1505.1070 RESTRICTED-USE PESTICIDES

Restricted-use pesticides shall be those so classified by the administrator of the U.S. EPA. Additionally, all pesticide uses classified as restricted-use by any other federal or state agency statutorily authorized to do said classification, as well as pesticides listed in parts 1505.1080 and ~~1505.1090~~, shall, for the purposes of the administration of parts 1505.08330 to 1505.1290, be classified as restricted-use pesticides.

This change is necessary and reasonable strictly as a structural change in the rules to have the correct wording to accomodate the proposed change in the rules.

~~1505.1090-USE-OF-LINDANE-~~

~~No person shall use Lindane in any pest control activity except as follows:~~

<del>Pest</del>	<del>Crop</del>	<del>Dosage</del>	<del>Remarks, Limitations</del>
<del>Soil insects</del>	<del>Corn, beans small grains, sugarbeets, sunflowers</del>	<del>1 oz. per bu.</del>	<del>Seed treatment only</del>
<del>Stored food pests</del>		<del>Follow label directions</del>	<del>For use by structural pest control operators</del>
<del>Mange mites</del>	<del>Swine</del>	<del>0.06% as spray or dip 1.0% dust</del>	<del>Do not treat before animals are 3 months old or sows within 2 weeks of farrowing; must be 30 days before slaughter, dips 60 days. If growth rates approach 200 lbs. in 150 days, another chemical should be used.</del>
<del>Centipedes symphylids</del>		<del>Follow label directions</del>	<del>For commercial green- house and floriculture use only.</del>
<del>Thrips, fungus- gnats, mealy bugs, sowbugs (pillbugs), spittle bugs</del>		<del>Follow label directions</del>	<del>For commercial green- house and floriculture use only.</del>

The deletion of this section is necessary to create uniformity with federal laws and laws in other states relating to the requirements for the sale and use of LINDANE in Minnesota. Additionally, Minnesota will conform with federally-approved label directions and other state pesticide programs.

The repeal of this section is reasonable because of the burden it places on retailers and users in Minnesota. Dealers are losing sales. Farmers and other users have been denied the option of using LINDANE for certain federally-approved uses not legal in Minnesota at this time. The U.S. EPA is examining the benefit/risk ration concern regarding certain uses of LINDANE. The federal restrictions will be adequate to protect the users, general public, and the environment in the state of Minnesota. These federally-imposed restrictions will appear on the label of appropriate products and apply equally in all states.