

The Dutch Elm Disease Regulations, 2005

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Chapter F-19.1 Reg 5 (effective February 3, 2005).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER F-19.1 REG 5
The Forest Resources Management Act

PART I
Introductory Matters

Title

- 1 These regulations may be cited as *The Dutch Elm Disease Regulations, 2005*.

Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Forest Resources Management Act*;
- (b) **“authorization”** means a valid written authorization issued by an inspector pursuant to section 14;
- (c) **“designated lands”** means lands designated pursuant to clause 3(1)(c);
- (d) **“Dutch elm disease”** means the plant disease caused by the existence in an elm tree of the fungus *Ophiostoma ulmi*, also known as *Ceratocystis ulmi* or *Ophiostoma novo-ulmi*;
- (e) **“elm bark beetle”** means:
 - (i) the Native elm bark beetle *Hylurgopinus rufipes*;
 - (ii) the European elm bark beetle *Scolytus multistriatus*; or
 - (iii) the Banded elm bark beetle *Scolytus shevyrewi*;
- (f) **“elm tree”** means any tree or part of a tree, living or dead, of the *Ulmus* genus and its cultivars, including the American, Siberian and Japanese elm trees, and includes any elm tree in the form of fuel wood, nursery stock, lumber, woodchips, logs, branches or bark;
- (g) **“elm tree disposal site”** means:
 - (i) a waste disposal ground; or
 - (ii) any other site that the department and one or more municipalities have determined to be suitable for the disposal of elm trees;
- (h) **“form”** means a form set out in Part I of the Appendix;
- (i) **“infected elm tree”** means an elm tree that:
 - (i) has tested positive for Dutch elm disease at:
 - (A) a laboratory designated pursuant to section 4; or
 - (B) any other laboratory approved by the minister; or
 - (ii) in the opinion of the minister or of an officer or inspector, is infected, may be infected or is likely to be infected with Dutch elm disease;

- (j) **“market”**, with respect to an elm tree, means to offer for sale, buy, sell, barter, deal, exchange, solicit or trade elm trees;
- (k) **“prune”**, with respect to an elm tree, means to cut away branch material that is living or dead to enhance the elm tree’s growth, vigour or form, but does not include root pruning;
- (l) **“pruning ban period”** means the period commencing on April 1 of any year and ending on August 31 of the same year;
- (m) **“remove”**, except in section 17, means to remove the trunk and all other parts of a tree that are above the stump;
- (n) **“root prune”** means to cut the roots of a tree to minimize root grafts between trees;
- (o) **“shear”** means to prune, for the purpose of maintaining a hedge, branches that are:
 - (i) less than one centimetre in diameter; and
 - (ii) the result of the current year’s tree growth;
- (p) **“stump”** means all parts of a tree, including roots, that are exposed above ground level after the tree has otherwise been removed;
- (q) **“table”** means a table set out in Part II of the Appendix;
- (r) **“transport”**, with respect to an elm tree, means to transport an elm tree within Saskatchewan or into Saskatchewan;
- (s) **“use”**, with respect to an elm tree, means any step taken to prepare an elm tree for use, including the sawing, peeling, chipping, preserving, cleaning, drying, extracting and packaging of elm products, but does not include removal or pruning;
- (t) **“waste disposal ground”** means a waste disposal ground operated or established by a municipality under a permit issued to that municipality pursuant to *The Municipal Refuse Management Regulations*.

11 Feb 2005 cF-19.1 Reg 5 s2.

Application of regulations – designated disease, insect and lands

3(1) Pursuant to section 63 of the Act:

- (a) Dutch elm disease is designated as a disease;
 - (b) the elm bark beetle is designated as an insect; and
 - (c) all lands in Saskatchewan that are located south of the 55th Parallel are designated as designated lands.
- (2) These regulations only apply with respect to designated lands.

11 Feb 2005 cF-19.1 Reg 5 s3.

Designated laboratories

4 The following laboratories are designated for the purposes of paragraph 2(i)(i)(A) of these regulations and subclause 85(a)(i) of the Act in relation to testing for Dutch elm disease:

- (a) the Crop Protection Laboratory of the Department of Agriculture, Food and Rural Revitalization for Saskatchewan, in Regina, Saskatchewan;
- (b) the Crop Diversification Centre South of the Department of Agriculture, Food and Rural Development for Alberta, in Brooks, Alberta;
- (c) any laboratory maintained by the Government of Canada, including:
 - (i) the Canadian Food Inspection Agency in Ottawa, Ontario;
 - (ii) the Pacific Forestry Centre in Victoria, British Columbia;
 - (iii) the Northern Forest Research Centre in Edmonton, Alberta;
 - (iv) the Great Lakes Forestry Centre in Sault Ste. Marie, Ontario; and
 - (v) the Atlantic Forest Research Centre in Fredericton, New Brunswick;
- (d) any laboratory maintained by a Canadian university.

11 Feb 2005 cF-19.1 Reg 5 s4.

PART II**Pruning, Removing and Disposing of Elm Trees****No pruning during ban period, exceptions**

5(1) No person shall prune an elm tree during the pruning ban period unless:

- (a) the elm tree is damaged;
- (b) the person has obtained an authorization to prune the elm tree;
- (c) the person is an employee of or contracted by a municipality or Crown corporation who, in the course of his or her duties or responsibilities, considers it necessary to prune the elm tree to ensure human safety or to avoid damage to other property; or
- (d) the elm tree is part of a hedge of elm trees that requires shearing.

(2) If an elm tree is damaged, the person who owns, occupies or controls the designated lands on which the elm tree is located shall prune the damaged elm tree:

- (a) within 14 days after the damage occurs; or
- (b) within any other period that the minister or an officer or inspector may order.

(3) Nothing in subsection (1) prevents a person from removing an elm tree during the pruning ban period.

11 Feb 2005 cF-19.1 Reg 5 s5.

No pruning infected elms trees, exceptions

6(1) Notwithstanding section 5, no person shall, at any time, prune an elm tree that has been marked in accordance with clause 7(a) as being an infected elm tree, unless the person:

- (a) has obtained an authorization to prune the elm tree; or
- (b) is an employee of or contracted by a municipality or Crown corporation who, in the course of his or her duties or responsibilities, considers it necessary to prune the infected elm tree to ensure human safety or to avoid damage to other property.

(2) Nothing in subsection (1) prevents a person from removing an infected elm tree at any time.

11 Feb 2005 cF-19.1 Reg 5 s6.

Identification of infected elm trees

7 If an elm tree has tested positive for Dutch elm disease in accordance with subclause 2(i)(i) or if, in the opinion of the minister or of an officer or inspector, an elm tree is infected, may be infected or is likely to be infected with Dutch elm disease, the minister or the officer or inspector:

- (a) shall place a clear mark on the infected elm tree so as to distinguish it from other elm trees in the area that are not infected; and
- (b) in accordance with subsection 63.2(1) of the Act, may order the person who owns, occupies or controls the designated lands on which the infected elm tree is located to remove and dispose of the infected elm tree.

11 Feb 2005 cF-19.1 Reg 5 s7.

Removal of elm trees

8(1) Unless otherwise directed by the minister or by an officer or inspector, a person who removes an elm tree shall remove and dispose of the elm tree:

- (a) in accordance with these regulations; and
- (b) in accordance with any order served on that person pursuant to section 7.

(2) Every person who removes an elm tree shall also:

- (a) remove the stump; or
- (b) treat the stump in a manner satisfactory to the minister or to an officer or inspector.

(3) If, in the opinion of the minister or of an officer or inspector, there is a danger of Dutch elm disease spreading through the roots of an infected elm tree to another elm tree, the minister or the officer or inspector may require that, in removing the infected elm tree, a person also root prune in and around the removal site.

11 Feb 2005 cF-19.1 Reg 5 s8.

Disposal of elm trees

9(1) Every person who prunes or removes an elm tree shall dispose of the elm tree by transporting it to the nearest elm tree disposal site for the municipality in which the elm tree is located during the next operating hours of the elm tree disposal site after the pruning or removal of the elm tree.

(2) Notwithstanding subsection (1) but subject to any other Act or law or to any licence, permit or approval issued pursuant to any Act or law, a person who prunes or removes an elm tree in a rural municipality or northern municipality may dispose of the elm tree on the land on which the elm tree is located:

- (a) by burning all bark from the elm tree; or
- (b) by burying the elm tree, including the bark, in an excavation that is deep enough to cover the elm tree with soil to a minimum depth of 25 centimetres and so that no part of the elm tree is exposed or subject to exposure by natural means.

11 Feb 2005 cF-19.1 Reg 5 s9.

Disposal sites

10(1) Subject to any Act or regulations or to any licence, permit or approval issued pursuant to any Act or regulations, every owner or operator of an elm tree disposal site shall:

- (a) dispose of any elm tree that is delivered to the elm tree disposal site by:
 - (i) burning all bark from the elm tree; or
 - (ii) burying the elm tree, including the bark, in an excavation that is deep enough to cover the elm tree with soil to a minimum depth of 25 centimetres and so that no part of the elm tree is exposed or subject to exposure by natural means; and
- (b) carry out the disposal of the elm tree in accordance with clause (a):
 - (i) within any period specified by the minister or by an officer or inspector; or
 - (ii) if no period is specified in accordance with subclause (i), in a timely manner.

(2) To ensure the proper disposal of elm trees, every municipality shall take reasonable steps to make the location of its elm tree disposal site known to the municipality's taxpayers.

11 Feb 2005 cF-19.1 Reg 5 s10.

PART III
Carrying on Certain Activities Involving Elm Trees

DIVISION 1
Professional Pruners

Pruning qualifications

11(1) On and after January 1, 2006, no individual shall prune elm trees for remuneration unless he or she:

- (a) holds a valid certificate, endorsement, licence or degree from a tree pruning course or program listed in Table 1;
 - (b) holds a valid certificate from the minister certifying that the minister is satisfied that the individual holds valid qualifications from another jurisdiction that are equivalent to the qualifications mentioned in clause (a); or
 - (c) is under the direct supervision of an individual who meets the qualifications set out in clause (a) or (b).
- (2) Every individual who, in accordance with clause (1)(c), supervises another individual in the pruning of elm trees for remuneration must ensure that the individual being supervised complies with the Act and these regulations respecting the pruning, disposal, storage, marketing, use and transportation of elm trees.

11 Feb 2005 cF-19.1 Reg 5 s11.

DIVISION 2
Authorization Required to Carry on Certain Activities

When authorization required

12(1) Unless the person holds an authorization to do so, no person shall:

- (a) subject to section 5, prune an elm tree during the pruning ban period;
 - (b) subject to section 6, prune an elm tree that has been marked in accordance with clause 7(a) as being an infected elm tree; or
 - (c) subject to subsection (2), store, use, market or transport any elm tree for use as fuel wood or for any other purpose.
- (2) A person is not required to hold an authorization to transport an elm tree or leaves from an elm tree to an elm tree disposal site for the municipality in which the elm tree is located.
- (3) An authorization is deemed to be a licence within the meaning of clause 99(1)(z.5) of the Act.

11 Feb 2005 cF-19.1 Reg 5 s12.

Application for authorization

13(1) Every person who wishes to obtain an authorization for the purposes mentioned in section 12 must apply:

- (a) to a municipal inspector to prune during the pruning ban period or to prune an infected elm tree;
 - (b) to a municipal inspector, if the intended storage, use or transporting is for non-commercial purposes; or
 - (c) to the provincial inspector, if the intended storage, use, marketing or transporting is for commercial purposes.
- (2) Every application for an authorization must be in Part 1 of Form A.
- (3) An application pursuant to clause (1)(c) must be accompanied by the applicant's written statement of intended commercial activity respecting elm trees.
- (4) If required by a municipal inspector, an application pursuant to clause (1)(a) or (b) must be accompanied by the applicant's written statement of intended activity respecting elm trees.

11 Feb 2005 cF-19.1 Reg 5 s13.

Issuance of authorization

14(1) On receipt of an application pursuant to section 13, the inspector may issue an authorization to the applicant for the purpose requested if the inspector is satisfied that:

- (a) the pruning, storage, use, marketing or transportation will not cause the spread of Dutch elm disease or increase the risk of spreading Dutch elm disease; and
 - (b) subject to section 24 of the Act, any elm tree to be stored, used, marketed or transported:
 - (i) is live elm tree nursery stock;
 - (ii) has no bark remaining on it; or
 - (iii) has been mechanically dried to a moisture content of 18% or less.
- (2) Every authorization must:
- (a) be in Part 2 of Form A;
 - (b) have an authorization number; and
 - (c) set out any terms and conditions applicable to the authorization that the inspector considers appropriate.
- (3) Every authorization expires on the earlier of:
- (a) the expiration date specified on the authorization; and
 - (b) one year after the date on which the authorization is issued.

11 Feb 2005 cF-19.1 Reg 5 s14.

Proper documents

15(1) Every person who prunes an elm tree pursuant to an authorization or who stores, uses, markets or transports elm trees shall:

- (a) keep in his or her possession a copy of the authorization issued to him or her respecting that activity, for the term of the authorization; and
 - (b) if requested to do so by the minister or by an officer or inspector, immediately produce his or her copy of the authorization for examination.
- (2) The authorization's authorization number must be recorded on all documents respecting the pruning, storage, marketing, use or transportation of elm trees for which the authorization was issued, including all bills of lading and invoices.

11 Feb 2005 cF-19.1 Reg 5 s15.

Suspension or cancellation of authorization

16(1) Subject to subsection (2), an officer or an inspector may suspend or cancel an authorization, in whole or in part, if the officer or inspector believes, on reasonable grounds, that the person to whom the authorization was issued:

- (a) has failed to comply with any term or condition of the authorization;
 - (b) has failed to provide any information required to be provided by these regulations;
 - (c) is in contravention of:
 - (i) a provision of the Act respecting procedures and measures for the control of damage to trees by designated insects or diseases;
 - (ii) an order issued pursuant to a provision of the Act mentioned in subclause (i);
 - (iii) these regulations; or
 - (iv) an order issued pursuant to these regulations; or
 - (d) made a false or misleading statement in any application, information or materials submitted pursuant to these regulations.
- (2) Subject to subsection (4), before an officer or inspector suspends or cancels an authorization pursuant to subsection (1), the officer or inspector shall:
- (a) serve on the person to whom the authorization was issued:
 - (i) written notice of the officer's or inspector's intention; and
 - (ii) the reasons for the proposed suspension or cancellation of the authorization; and
 - (b) give the person on whom notice was served pursuant to clause (a) an opportunity to make written representations to the officer or inspector, within 30 days after the notice mentioned in clause (a) is served, as to why the authorization should not be suspended or cancelled.
- (3) After receiving written representations pursuant to clause (2)(b) or if no written representations are received within the 30-day period mentioned in clause (2)(b), the officer or inspector shall issue a written decision and serve the decision on the person to whom notice was served pursuant to subsection (2).

(4) If, in the opinion of an officer or inspector, it is in the public interest to immediately suspend or cancel an authorization, the officer or inspector may immediately suspend or cancel the authorization and, on the suspension or cancellation, shall:

(a) serve on the person to whom the authorization was issued written notice of and the reasons for the suspension or cancellation; and

(b) give the person on whom notice was served pursuant to clause (a) an opportunity to request a reconsideration of the immediate suspension or cancellation.

(5) An officer or inspector is not required to give an oral hearing to any person to whom a notice has been served pursuant to subsection (2) or (4).

11 Feb 2005 cF-19.1 Reg 5 s16.

PART IV General

Prohibition re seized items

17 No person shall interfere with or remove any infected elm tree, equipment, vehicle or other article seized pursuant to the Act in relation to Dutch elm disease.

11 Feb 2005 cF-19.1 Reg 5 s17.

Service

18(1) Any notice, order, decision or other document required to be served by an officer or inspector pursuant to these regulations is to be served personally or by registered mail to the last known address of the person being served.

(2) A notice, order, decision or other document served by registered mail is deemed to have been received on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, it was not received or was received on a later date.

11 Feb 2005 cF-19.1 Reg 5 s18.

PART V Transitional and Coming into Force

Transitional – authorizations

19 Notwithstanding the repeal of *The Dutch Elm Disease Control Regulations*, any authorization issued or granted pursuant to those regulations that was valid on the day before the coming into force of these regulations remains in force until its expiry date as if issued pursuant to these regulations and may be suspended, cancelled or otherwise dealt with pursuant to these regulations as if issued pursuant to these regulations.

11 Feb 2005 cF-19.1 Reg 5 s19.

Coming into force

20 These regulations come into force on the day on which they are filed with the Registrar of Regulations.

11 Feb 2005 cF-19.1 Reg 5 s20.

- (e) to market _____ / _____ of _____
(quantity/unit) (species and condition of elm tree/products)
 at the following location(s) _____ ;
- (f) to transport _____ / _____ of _____
(quantity/unit) (species and condition of elm tree/products)
 loading location(s) _____ ;
 mode of transport _____ ;
 purpose _____ ;
 route _____ ;
 stop-over location(s) _____ ;
 delivery location(s) _____ ;

Note: The pruning, storage, use, marketing or transportation of elm trees must not cause the spread of Dutch elm disease or increase the risk of spreading Dutch elm disease. Any elm tree to be stored, used, marketed or transported must be live elm tree nursery stock, have no bark on it or have been mechanically dried to a moisture content equal to or less than 18%.

(Signature of Applicant) (date)

PART 2
Authorization to Prune, Store, Use, Market or Transport Elm Trees

- Denied: _____
(date)
- Approved: Authorization #A _____ / _____ / _____
(municipality name or number) (year) (number)

_____ is authorized to conduct the above-mentioned activities, subject to *The Forest Resources Management Act* (Saskatchewan), *The Dutch Elm Disease Regulations, 2005* (Saskatchewan), and the terms and conditions attached to this Authorization.

Issued at _____, Saskatchewan on _____, 20 _____ .

Expiry Date: _____, 20 _____ Terms and Conditions attached

- Inspector: Provincial (commercial)
 Municipal (non-commercial)

(name) (Signature)

Licensee:

(name) (Signature)

PART II
Tables

TABLE 1
[Section 11]
Approved Professional Tree Pruning Courses and Programs

Institute	Course or Program
International Society of Arboriculture, Prairie Chapter	Certified Arborist Program
Saskatchewan Institute of Applied Science and Technology (SIAST)	Tree Pruning Course – if course completed before July 2001, practical pruning upgrading through SIAST required
Saskatchewan Power Corporation (SaskPower)	Pruning/Dutch Elm Disease Awareness Training Program
University of Manitoba	Manitoba Arborists Training and Examination Program
Olds College, Alberta	– Ornamental Horticulture Major – Landscape Gardeners Apprenticeship Program – Utility Tree Worker Safety Training Course

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