



LEGISLATIVE and REGULATORY PRINCIPLES AND POSITIONS

approved by
MNLA Government Affairs Committee

adopted by
MNLA Board of Directors

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MNLA LEGISLATIVE and REGULATORY PRINCIPLES AND POSITIONS

This manual includes the principles and position statements designed to guide the government affairs efforts of the Minnesota Nursery & Landscape Association staff and volunteer leadership, as well as a guide demonstrating the process for developing legislative, policy, and regulatory priorities.

Positions are numbered by the year they were first adopted, with the most recently-adopted positions listed first.

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Policy List by Year of Adoption

- Policy #2019-1: Avoiding Plant Bias
- Policy #2018-1: Over-Chlorination of Lakes and Rivers
- Policy #2014-1: Pollinators
- Policy #2012-1: Integrated Pest Management
- Policy #2011-1: Community Forestry / Infrastructure.
- Policy #2011-2: Community Forestry / Research Funding.
- Policy #2010-1: Promotion of Efficient Irrigation.
- Policy #2010-2: Stewardship of Water Resources.
- Policy 2010-4: Identification of Tree Care Professionals.
- Policy #2009-1: Noxious Weeds.
- Policy #2009-2: Ag Land Preservation and Taxation.
- Policy #2009-3: Contractor Prompt Payment and Retainage.
- Policy #2009-4: Licensing for Low Voltage Professionals.
- Policy #2009-5: Sales Taxes.
- Policy #2009-6: Horticulture is Agriculture.
- Policy #2007-1: Restrictions on firewood movement to protect Minnesota forests and the green industry.
- Policy #2006-1: Invasives Species Programs.
- Policy #2006-2: Forest and Shade Tree Pests Authority.
- Policy #2006-4: Funding for Minnesota Grown.
- Policy #2004-1: Concerns from MNLA members regarding facility depth of burial enforcement and practices.
- Policy #2004-3: Immigration System Reform.
- Policy #2002-3: Nursery Industry Invasives Code of Conduct.
- Policy #1998-2: Invasive Plants.

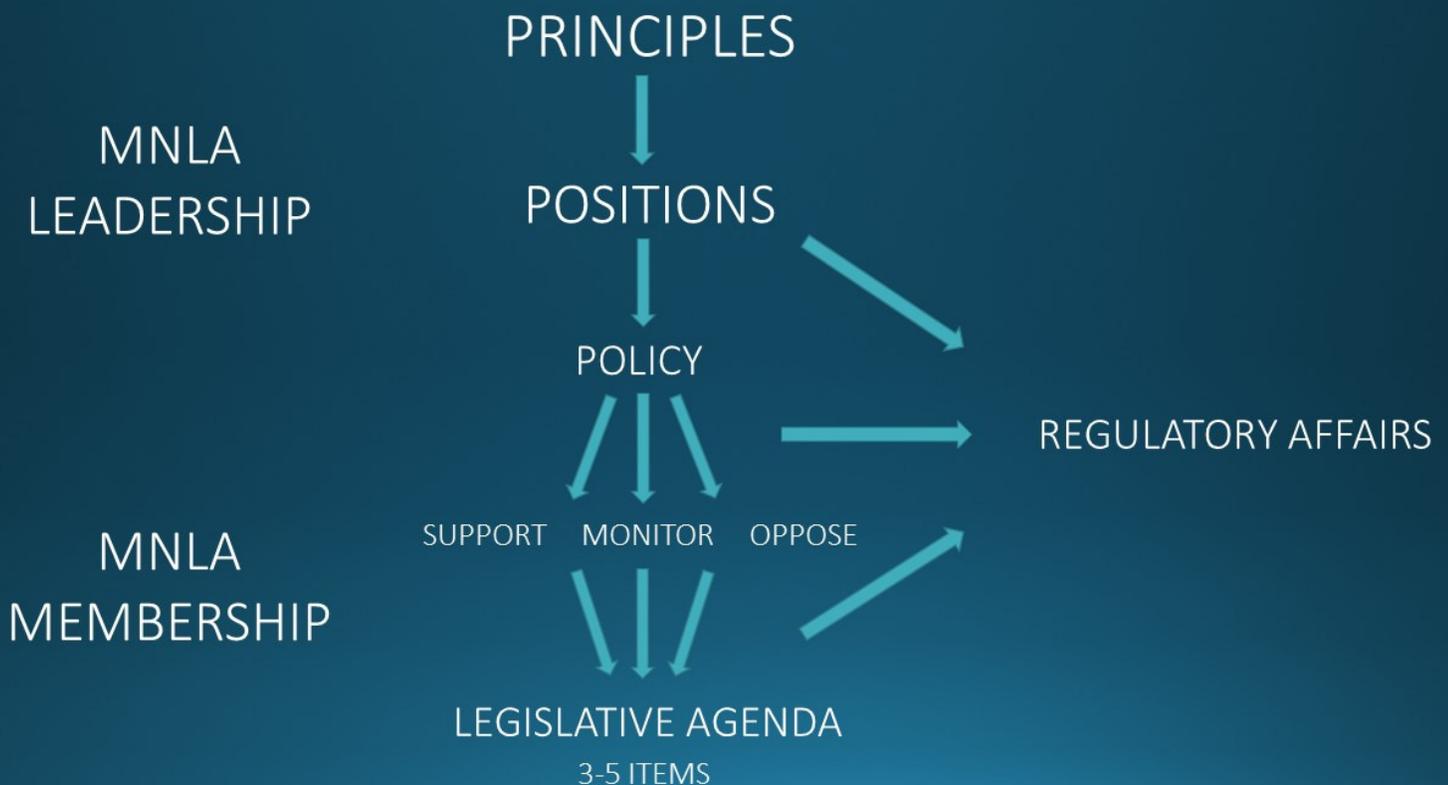
STATEMENT OF MNLA GOVERNMENT AFFAIRS PRINCIPLES & GUIDE

The mission of MNLA Government Affairs programs is to help members operate their businesses more successfully by recommending policy positions, setting and implementing strategy, and representing the collective interests of MNLA members in state legislative and regulatory affairs and, when feasible, in national and local affairs.

The MNLA Board of Directors, the MNLA Government Affairs Committee and MNLA staff will refer to the following principles when determining legislative and regulatory priorities and engaging in government affairs efforts.

1. MNLA Government Affairs upholds the association's mission of helping nursery and landscape related companies in Minnesota and the surrounding region operate their businesses more successfully.
2. MNLA Government Affairs is ethical, professional, and nonpartisan.
3. MNLA Government Affairs proactively promotes stewardship of our natural resources.
4. MNLA Government Affairs will support the basic tenets of a capitalist-based economy in a representative democracy*.
5. MNLA Government Affairs recognizes that appropriate taxation and regulation are necessary functions of our republic.
6. MNLA Government Affairs will establish public policy positions related to the environment, first, on peer-reviewed, sound scientific research; and, secondarily, on generally accepted cultural practices where sound science is not available or clearly defined.

*A capitalistic economy in a democracy is generally defined as the means of producing wealth, best achieved through privately-owned and controlled enterprises. Land, labor, and capital are best owned, operated and traded by private individuals; and furthermore, investments, distribution, income, production, pricing, and supply are best determined by voluntary private decisions in a competitive market economy.



MNLA POLICY DEVELOPMENT TIMELINE

This document addresses twenty-one different issues that impact members from different cohorts of nursery and landscape services. This document serves as the guiding principle for the Government Affairs Committee and the Government Affairs Director's advocacy efforts. Members and their employees from across the state are recruited throughout the year to participate in the Government Affairs Committee and/ or to offer advice and perspective as the Committee considers different policy introductions and alternatives. Policies are considered, discussed, and revised annually as needed with this vital member input. As thumbnail of the biennial process is found below.

January The Minnesota Legislature begins the first session of each two-year biennium in January of odd-numbered years. (The 2019 Legislative Session is scheduled to begin on January 8, 2019).

February The Legislature typically begins the second session of each biennium in February or March of even-numbered years. The February forecast is released at the end of February or early March. The 2018 Legislative Session is scheduled to begin on February 20, 2018.

March/April Legislative Policy and Budget Committees work to finish changes to proposed bills referred to their committees and report them out by a series of deadlines

May The Minnesota Constitution mandates the deadline the end of any legislative session is the first Monday following the third Saturday in May (May 21, 2018). The governor may call special legislative sessions when necessary.

June The MNLA Government Affairs Team compiles and publishes the Legislative Update. Green Industry Advocate of the Year Plaques are awarded.

August The Government Affairs Committee meets to consider policies for the coming legislative session and approves a policy survey to be sent to the full membership in September.

September The annual MNLA membership policy survey is sent to all members for feedback on direction and advocacy for the next year. The MNLA Board of Directors meets to formally approve the agenda.

October Draft policies, as approved by the Government Affairs Committee, are shared with members online.

MNLA GOVERNMENT AFFAIRS POLICIES

SECTION 1 – WATER RESOURCES

Policy #2010-1

Promotion of Efficient Irrigation.

Issue: There is an ever-increasing need for more water and innovative ways to support and maintain the expanding “footprint” on the earth.

Response: MNLA promotes efficient irrigation to ensure long term sustainability of water resources and the landscape. Irrigation is required to fulfill the world’s growing need for food, feed, fiber, fuel and the quality of life benefits provided by a healthy landscape. As stewards of a critical resource, we believe that efficient irrigation meets these needs while recognizing environmental and conservation concerns.

Policy #2010-2

Stewardship of Water Resources

Issue: As with Policy #2010-1 above, the need for increased water resource conservation and innovation in how to deliver needed water in the right place at the right time drives continued conversations and a new need for original ideas moving into the future.

Response: As stewards of water resources, MNLA shall advocate for workable outdoor water use policies including, but not limited to: best practice programs, adoption of workable rainwater/stormwater reuse, creation and adoption of minimum performance expectations in Minnesota building codes, voluntary registration programs for consumer protection and, if necessary, licensure of professionals to demonstrate minimum levels of competence and consumer and resource protection.

SECTION 2 – TREES, COMMUNITY FORESTRY

Policy #2011-1

Community Forestry Policy / Green Infrastructure

Issue: Protecting and enhancing urban shade tree resources is critical for the state’s “green infrastructure.”

Response: MNLA supports public investments in removal of diseased or infested trees; replacement of removed trees; and expansion of overall urban tree planting efforts. MNLA can support public investment in treatment of diseased or infested trees if it has been identified as an ongoing priority by a public entity and/or if a sustainable source of ongoing funding is secured.

A comprehensive and financially sustainable urban shade tree plan of action may include appropriate maintenance and corrective sanitation; biological control; chemical treatment; and the planting of diverse species of trees.

Environmental benefits trees provide include:

- Energy savings
- Stormwater mitigation

- Biodiversity and wildlife habitat
- Community livability benefits such as higher property values, noise reduction, recreation values, business district enhancements, aesthetics, and crime reduction.

Minnesota's state and local governments, as well as homeowners and the business community, should be both proactive and reactive to protect, enhance and restore our urban shade tree resources in light of damage from emerald ash borer, Dutch elm disease, Gypsy moth, oak wilt, and other pests and diseases.

Policy #2011-2

Community Forestry Policy / Research Funding

Issue: The Green Industry and MNLA specifically is often called upon to support and lead efforts for funding requests related to community forestry, often urban shade tree expansion or restoration.

Response: MNLA will consider supporting requests for public funding of research to protect, enhance and restore urban shade tree resources, provided the proposal is fiscally responsible and reasonably practical and applicable to the needs of MNLA members, plus the researcher can demonstrate how the proposal will provide unique information not available from other institutions. Such proposals may be reviewed by the Government Affairs Committee for approval.

Policy #2010-4

Identification of Tree Care Professionals.

Issue: In recent years, the State of Minnesota has taken steps to address the need to protect consumers from less than reputable tree contractors as well as to protect the environment from serious pest and disease threats common to arboreal plants.

Response: In cooperation with our membership and the Department of Agriculture, MNLA has promoted and supported initiatives to help protect consumers and the environment in the wake of pest and disease threats to community forests, MNLA supports a state-based system that identifies and promotes credentialed and bonded tree care professionals.

Policy #2007-1

Restrictions on firewood movement to protect Minnesota forests and the green industry.

Issue: Many Minnesotans enjoy and appreciate the opportunities to be outside in good and bad weather. With the increase in forest related diseases and pests, new laws and regulations are needed to prevent any further damage to forest products but also to protect consumers and the green industry.

Response: MNLA supports laws and rules regulating the movement of firewood and the labeling of firewood for sale. In addition, MNLA supports strong enforcement of these laws and rules by the appropriate agencies. Because firewood is known to potentially harbor serious forest pests such as emerald ash borer, Gypsy moth, Asian long horn beetle, sudden oak death fungus, and Sirex wood wasp, close regulation and enforcement by state authorities is advantageous for forest and environmental protection, as well as for the protection of the economic interests of green industry companies.

Policy #2006-2

Forest and Shade Tree Pest Authority.

Issue: The MNLA supports efforts to replace forests and trees devastated by pests and disease.

Response: MNLA supports regulatory authority for exclusion or eradication of pests to be housed at the Minnesota Department of Agriculture and that shade tree replacement and other reforestation planting programs be housed at the Minnesota Department of Natural Resources.

SECTION 3 – INVASIVE PLANTS, NOXIOUS WEEDS

Policy #2009-1

Noxious Weeds.

Issue: Noxious weeds have plagued growers for millennia. The problem of how to eliminate them has only recently become the purview of the government. Finding the right balance of intervention and promoting incentives to control weeds based on sound science can be difficult when constituents call on legislators and regulators to do something immediate.

Response: MNLA supports voluntary and regulatory efforts to limit the negative environmental impact of noxious weeds. To that end, MNLA supports government and voluntary citizen efforts for noxious weed control; and a vigorous program at the Minnesota Department of Agriculture that provides statewide coordination and education. Furthermore, MNLA supports restrictions on plants that have negative environmental impacts, provided there has been scientific review and that the economic attributes of that plant are strongly taken into consideration.

Policy #2006-1

Invasives Species Programs.

Issue: Invasive species, including plants, insects and other pests have plagued professional growers, amateur horticulturalists and home owners alike for years. The State of Minnesota has made eradicating these invasive species a top priority and the Department of Agriculture is taking a strategic lead in planning to eliminate these species.

Response: MNLA supports strong funding for the Minnesota Department of Agriculture and the Minnesota Department of Natural Resources for invasive species surveys and inspection programs for emerging pests; integrated pest management (IPM) strategies for established pests; and plant pest laboratory services.

Policy #2002-3

Nursery Industry Invasives Code of Conduct

Issue: Voluntary efforts to share information and best management practices have been shown to be the most reasonable way to jointly fight invasive species nationwide.

Response: The Minnesota Nursery & Landscape Association has endorsed the national Voluntary Codes of Conduct for Nursery Professionals.

This voluntary code of conduct indicates that the signatories will:

- Ensure that invasive potential is assessed prior to introducing and marketing plant species new to North America. Invasive potential should be assessed by the introducer or qualified experts using emerging risk assessment methods that consider plant characteristics and prior observations or experience with the plant elsewhere in the world. Additional insights may be gained through extensive monitoring on the nursery site prior to further distribution.
- Work with regional experts and stakeholders to determine which species in your region are either currently invasive or will become invasive. Identify plants that could be suitable alternatives in your region.
- Develop and promote alternative plant material through plant selection and breeding.
- Where agreement has been reached among nursery associations, government, academia and ecology and conservation organizations, phase-out existing stocks of those specific invasive species in regions where they are considered to be a threat.
- Follow all laws on importation and quarantine of plant materials across political boundaries.
- Encourage customers to use, and garden writers to promote, non-invasive plants.

Policy #1998-2

Invasive Plants

Issue: Curbing the use of invasive plants and pre-emptively fighting their introduction into the Minnesota ecosystem is a goal of the MNLA and the State of Minnesota overall.

Response: The Minnesota Nursery and Landscape Association encourages the use of native and well-adapted non-native plant material, provided such material is appropriate for a particular site. MNLA discourages the use of invasive plants, i.e.: plants that have spread or may spread into native ecosystems and dominate or disrupt those ecosystems. MNLA will be involved in proactive, science-based public review processes that screen plants for invasive tendencies. MNLA will continue to educate its members and - through its members - consumers on the appropriate use of plant materials to beautify the landscape and improve the environment. Professional advice should be sought on what are appropriate plants for a particular site.

SECTION 4 – TAXATION

Policy #2009-2

Ag Land Preservation and Taxation.

Issue: The State of Minnesota has tried for nearly two decades to incent the designation of certain lands for preservation as conservation areas. Some of these lands are currently in use for commercial agricultural production.

Response: MNLA supports policies which encourage land to continue in agricultural production as well as being preserved for conservation purposes. Furthermore, these policies should include fair taxation of such farmland or conservation land pressured by residential or commercial development.

Policy #2009-5

Sales Taxes

Issue: Sustainable revenue is always an ongoing concern for any unit of government. Finding revenue streams that can provide ongoing funding without impacting local economies is the goal of legislative bodies. In recent years, some legislators have set a goal of imposing consumption taxes (sales) versus income taxes, suggesting expanding the tax to include services in addition to simply goods.

Response: MNLA opposes extension of sales and use taxes on any services without offsetting reductions in other business-related taxes.

SECTION 5 – CONTRACTOR CONCERNS

Policy #2009-3

Contractor Prompt Payment and Retainage.

Issue: Subcontractors do excellent work on time and on budget. Unfortunately, many times they are not paid promptly in accordance with their contract and a portion of their payment is often held as a “retainage” even after a subcontractor’s scope of work has been met. This discrepancy happens with private as well as public projects with cities, counties and others.

Response: MNLA supports polices to protect the rights of all contractors and suppliers, large and small, to be paid in a timely manner for work done to specification. Sub-contractors and suppliers should be treated with fairness in Minnesota Statutes Chapter 337 “Building and Construction Contracts” and all other statutory references affecting prompt payment and retainage.

Policy #2009-4

Power Limited Licensing for Irrigation and Landscape Lighting Professionals.

Issue: The MNLA has worked for a decade—Cassie are you reading every word here?—to ensure that power limited technicians are appropriately trained and licensed to provide high quality service. Additional updates to the process of licensure are needed.

Response: MNLA supports workable licensing for power limited technicians, including professionals practicing irrigation and landscape lighting installation. However, the current Power Limited Technician / Technology System Contractor licensure system is flawed and, consequently, many professionals are not in compliance. Make compliance reasonable through these steps: (1) Eliminate the artificial barrier of the 3-year apprenticeship; and (2) Create a meaningful exam that is appropriate to the area of business. In addition, the Department of Labor & Industry should be (1) Transparent and accountable in identifying where license revenue is being allocated; and (2) Vigilant about enforcement procedures.

Policy #2004-1

Concerns from MNLA members regarding facility depth of burial enforcement and practices.

Issue: Certain utilities (telephone and cable primarily) are often found to be imbedded at the wrong depth resulting in project delays.

Responses: MNLA supports the state’s outdoor facility excavation and locating laws and rules, as well as the Gopher State One Call notification system. MNLA regularly furnishes education and educational opportunities to its members about excavation and facility locating laws and rules.

MNLA members regularly encounter outdoor facilities, primarily telephone and cable facilities, that are not installed to required depth (MN Statutes 326B.35 and National Electrical Safety Code 352-1) resulting in damaged facilities, interrupted service, project delays and unbudgeted costs to members and consumers.

MNLA supports/requests effective depth of burial enforcement by the Office of Pipeline Safety and advocates for changes in cultural practices by facility owners to adhere to applicable Minnesota laws and rules, and to fairly work with law-abiding excavators to eliminate costs of repairs to the excavator for damaged facilities when the excavator has followed proper locating procedures, yet the facility is found to be improperly buried or improperly located.

SECTION 6 - OTHER

Policy #2009-6

Horticulture is Agriculture.

Issue: MNLA supports continued recognition of the production of horticultural crops as agriculture. Horticultural crops shall include but are not limited to trees, shrubs, perennials, and annuals. Both the state of Minnesota and the federal government identify nursery and greenhouse production to be agriculture, as noted in the citations that follow.

Minnesota Department of Revenue Fact Sheet #100 states: <i>Agricultural Production includes the following activities when they result in a product that will ultimately be sold at retail: Floriculture – cultivating flowering plants; Horticulture – cultivating fruits, vegetables and plants.</i>
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Minnesota Statutes 273.13 specifically includes nursery stock as an agricultural product: <i>“The term "agricultural products" as used in this subdivision includes production for sale of: (1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;</i>

Because nursery stock is an agricultural product, it fits within Minnesota Statutes 273.13 as being produced on agricultural property: <i>(e) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity.</i>
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Minnesota Statutes 273.13 goes so far as to give special consideration to small nurseries:

(f) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:

(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;

Further evidence that the State of Minnesota is clear that nurseries are considered agriculture: In Minnesota Statute 297A.61, Subd. 12, machinery used in the production for sale of trees and shrubs, plants . . . “is included as farm machinery exempt from sales tax.” In Minnesota Statute 297A.69, Subd. 2, the State of Minnesota also identifies materials consumed in the production of horticultural and floricultural products to be exempt from sales tax.

The sale and movement of nursery stock is regulated by the Minnesota Department of Agriculture from which nursery growers must obtain inspection certificates.

Horticultural and floricultural products are included in the Census of Agriculture performed by the National Agricultural Statistics Service.

The U.S. Department of Agriculture recognizes nursery crops as eligible for Federal crop insurance.

Internal Revenue Code Section 263(A)(d)(3) allows growers of crops with a preproductive period (time growing on the nursery) of more than two years to elect to not capitalize the costs of expenses (inventory) as otherwise required by section 263(A), though section 263(A)(e)(2)(A) then requires the use of straightline depreciation for equipment and other depreciable property used in that production. In layman’s terms, nurseries can use cash basis accounting instead of accrual basis accounting because of their unique circumstances in agriculture.

Policy #2006-4

Minnesota Grown

Issue: MNLA is proud to support activities and programs created to promote and market Minnesota businesses and products.

Response: MNLA supports continued funding of the Minnesota Grown program. Funds are used to match dollars from grower associations to support marketing of Minnesota Grown agricultural products. In addition to helping farmer’s markets, fruit and vegetable growers, specialty meat producers and others, the Minnesota Grown program supports nurseries, greenhouses and garden centers, helping to market their locally grown landscape plants grown specifically for our tough northern winters.

Policy #2004-3

Immigration System Reform

Issue: Many MNLA members are reliant upon immigrants as part of their seasonal workforce. With improvements in the state and federal economies and the accompanying decrease in the overall unemployment rate has made this general need acute.

Response: MNLA supports reform of the nation's immigration system. MNLA supports reforms that would (a) allow employers to hire the necessary seasonal workers in a fair and legal manner; (b) protect the nation's security interests; and (c) protect the human rights of the immigrant workers.

MNLA has worked as part of a local Minnesota Business Immigration Coalition headed by the Minnesota Chamber of Commerce to urge federal action to update this outdated visa system.

Policy #2012-1 (updated 3/21/2019)

Integrated Pest Management

Issue: Educating about the value and environmental benefits of Integrated Pest Management is an important step toward eradicating pests in a safe manner.

Response: The MNLA supports and encourages the use of Integrated Pest Management (IPM), a deliberative, comprehensive, science-based, and common-sense approach to pest management that identifies and reduces risks from pests and pest management strategies. IPM coordinates the use of pest biology, environmental information, and the most current technology available to prevent unacceptable levels of pest damage by the most economical means, while posing the least possible risk to people, property, resources, and the environment. IPM is an informed and iterative pest management strategy wherein the pest control strategies employed are evaluated and modified based on their effectiveness in controlling pests in a responsible, judicious, and cost-effective manner. IPM provides an effective strategy for managing pests in all arenas, from developed agricultural, residential, and public areas to wild lands. IPM serves as an umbrella to provide an effective, all encompassing, low-risk approach to protecting resources and people from pests.

The primary components of a comprehensive IPM program include being aware of prospective pests and their harmful effects, defining unacceptable pest or damage levels as a guide for future pest control decisions (site- and pest-specific action thresholds), ongoing pest monitoring (scouting) and proper identification, understanding the life cycles of potential pests and their interactions with the environment, using pro-active cultural practices as the first line of defense to help prevent pests from becoming a threat (site-specific crop selection, crop rotation, plant quarantine, sanitation, etc.), enacting appropriate pest control measures based on an evaluation of need and their effectiveness and risk, continued monitoring of pest levels and evaluation of the effectiveness of the pest management strategies employed, and using additional or alternative pest control measures if needed. Less risky pest control measures that are effective are chosen first when action thresholds are exceeded and pest control is needed. While controlling pests and the damage they cause is the primary objective of IPM, the pest control, damage prevention, and risk reduction goals of IPM are usually not absolute. With occasional exceptions, the intent is usually not the complete elimination of pests, damage, and risk, it is to keep pest populations and damage within acceptable levels and to minimize, not eliminate, the associated risks. When needed, potential IPM pest control options include mechanical controls (hand-picking insects, pulling weeds, barriers, traps, pruning, cultivation, etc.), biological controls (beneficial insects, biological pesticides, pheromones, sterile inset techniques, etc.), genetic resistance (plant breeding and selection, pest-resistant varieties), and chemical controls (the appropriate and targeted use of synthetic pesticides in strict compliance with the requirements developed by the US EPA and included on the pesticide label).

Policy #2014-1

Pollinators

Issue: Research over many years has showed declining numbers of pollinators and habitat.

Responses: The Minnesota Nursery and Landscape Association (MNLA) is an advocate for pollinator-friendly habitats and purposefully devotes resources to the complex issues surrounding pollinator health.

MNLA believes that US EPA guidance and research based in sound science are fundamental foundations for rational policy decision-making and subsequent human actions to maintain and enhance pollinator habitat.

MNLA encourages its members to incorporate the use of best management practices including Integrated Pest Management when transforming pollinator advocacy to action.

Policy #2018-1

Over Chlorination of Lakes and Rivers

Issue: Currently landscape professionals and others perform snow and ice removal during winter months using anti-slip/ de-icing products to protect the public from injury. Over-application of chloride-based products is detrimental to our waterways, but applicators are often pressured to apply more product than necessary or ideal to meet demands from their clients to minimize slips & falls on the owners' property. These demands and concerns about potential litigation lead to applicators having few options other than over-application of product which results in water pollution. Even when these applicators follow best practices, they may still face litigation threats.

Response: MNLA has taken the lead role in passing legislation connecting anti-slip/anti-ice application best management practices to liability protections for salt professionals and their clients—the small business owners across the State of Minnesota—to avoid uncontrollable circumstances and unexpected litigation costs while protecting the public's safety and the health of Minnesota's waterways.

Policy #2019-1

Avoiding Plant Bias

Issue: The Minnesota Nursery and Landscape Association (MNLA) believes all plants, native or introduced and with the exception of invasive plants (non-native plants that have been documented to cause substantial harm to people, animals, or native ecosystems) and noxious weeds, furnish known and possibly unknown benefits to the environment and human well-being.

Response: It is the position of the MNLA that individuals and/or entities that seek to promote or incentivize the improvement, restoration, or establishment of wildlife habitat or more balanced habitat using public funds, avoid messaging that demonize one plant species, category of plants, or crop type in favor of another with the exception of invasive plants (non-native plants that have been documented to cause substantial harm to people, animals, or native ecosystems) and noxious weeds in Minnesota.