

## CHAPTER 405-A

### HORTICULTURE

#### §2211. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 785, §3 (NEW).]

**1. Commissioner.** "Commissioner" includes a designee of the Commissioner of Agriculture, Conservation and Forestry.

[PL 1991, c. 785, §3 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Greenhouse.** "Greenhouse" means a structure covered with glass, plastic, fiberglass or other transparent material in which plants are cultivated in a controlled environment.

[PL 1991, c. 785, §3 (NEW).]

**3. Nursery.** "Nursery" means a place where nursery stock is produced, stored or offered for sale.

[PL 1991, c. 785, §3 (NEW).]

**4. Nursery stock.** "Nursery stock" means:

A. Woody plants, including ornamental and fruiting trees, shrubs, vines and all viable parts of these plants; [PL 1991, c. 785, §3 (NEW).]

B. Herbaceous plants, including florist stock plants, annuals, perennials, vegetable seedlings, herbs, potted plants and all viable parts of these plants; and [PL 1991, c. 785, §3 (NEW).]

C. Any other plant or plant part designated by the commissioner. [PL 1991, c. 785, §3 (NEW).]

"Nursery stock" does not include cut Christmas trees, wreaths, field crops, seeds, dried herbs and flowers and cut flowers.

[PL 1991, c. 785, §3 (NEW).]

**5. Other materials.** "Other materials" means material not included in the definition of "nursery stock," such as containers, seeds and cut Christmas trees.

[PL 1991, c. 785, §3 (NEW).]

**6. Plant pest.** "Plant pest" means any insect, mite, nematode, fungus, virus, bacteria, slug, snail or other form of aquatic or terrestrial plant or organism that may cause injury to a plant or that the commissioner declares to be a plant pest.

[PL 1991, c. 785, §3 (NEW).]

#### SECTION HISTORY

PL 1991, c. 785, §3 (NEW). PL 2011, c. 657, Pt. W, §6 (REV).

#### §2212. Appointment of State Horticulturist

The commissioner shall appoint the State Horticulturist within the Department of Agriculture, Conservation and Forestry to carry out the provisions of this chapter. [PL 1991, c. 785, §3 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

#### SECTION HISTORY

PL 1991, c. 785, §3 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

#### §2213. Inspections

**1. Inspections of nurseries; sales prohibitions.** Inspections of nurseries and sales prohibitions are as follows.

A. The State Horticulturist or an assistant shall inspect nurseries as determined necessary by the State Horticulturist. Nurseries must be accessible at reasonable times for inspection. If plant pests are found at sufficient levels to pose a threat to other horticultural establishments or the general public, the State Horticulturist may issue an order to embargo or detain the nursery stock. Upon issuing an order of embargo or detention, the State Horticulturist shall notify the owner of the nursery stock of that order. Within 10 days of receipt of notification, the owner may request a hearing to be held in accordance with the Maine Administrative Procedure Act.

The State Horticulturist may prescribe measures designed to control the plant pests. The State Horticulturist shall remove the order of embargo or detention if satisfied that the plant pests have been controlled. [PL 1991, c. 785, §3 (NEW).]

B. A person may not offer for sale dead nursery stock or stock stressed by drying, excessive heat, excessive cold or any other condition that prevents the normal growth of the stock. A person may not offer for sale nursery stock that is subject to an order of embargo or detention. [PL 1991, c. 785, §3 (NEW).]

[PL 1991, c. 785, §3 (NEW).]

**2. Inspection of orchards, fields and gardens.** The State Horticulturist or an assistant may inspect any orchard, field, garden or roadside in public or private grounds if there is reasonable cause to believe the area is infested with a plant pest that may be a threat to plants belonging to other property owners or to the health or safety of the general public. The State Horticulturist, after notice and opportunity for a hearing as provided in the Maine Administrative Procedure Act, may order the owner, occupant or person in charge to take any necessary action including the proper treatment or destruction of infested or diseased plants. If the owner of the property or a person having lawful custody of the plants does not comply with the written order, the commissioner may refer the matter to the Attorney General.

[PL 1991, c. 785, §3 (NEW).]

**3. Inspection of other material.** A person may request inspection of other material by the State Horticulturist prior to the movement or sale of that material. The commissioner may assess fees to cover the costs associated with those inspections. Funds generated from the fees must be deposited in a nonlapsing account and used to conduct the inspections.

[PL 1991, c. 785, §3 (NEW).]

#### SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

#### §2214. Shipments certified

Nursery stock shipped into this State from any other state, province or country must bear a certificate on each package stating that the contents were inspected by an authorized inspecting officer and that the contents appear to be free from plant pests. The State Horticulturist or an assistant may inspect, at the point of destination, all nursery stock coming into the State. If that nursery stock is infested with any plant pests, the State Horticulturist, after notice and opportunity for a hearing as provided in the Maine Administrative Procedure Act, may order the stock destroyed or returned to the consignor at the consignor's expense. [PL 1991, c. 785, §3 (NEW).]

#### SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

#### §2215. Transportation of uninspected stock

A person, firm or corporation who owns, sells or transports nursery stock may not bring nursery stock into this State unless each package bears an unexpired official certificate of inspection that meets the requirements of section 2214. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2216. Violations**

Any violation of this chapter or rules adopted pursuant to section 2217 is a civil violation for which a forfeiture of not more than \$500 may be adjudged. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2217. Powers and rules**

The commissioner may adopt rules to implement this chapter. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

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