

IC 14-24-5

Chapter 5. Nurseries

IC 14-24-5-1

"Vital" defined

Sec. 1. As used in this chapter, "vital" means that a plant is physiologically vibrant and does not suffer unreasonably from mechanical or pathological stress.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-2

Inspections

Sec. 2. (a) The division shall inspect each nursery in Indiana at least one (1) time each year if the nursery:

- (1) imports nursery stock from outside Indiana; or
- (2) exports nursery stock from Indiana.

(b) The division director may authorize nursery inspections in addition to those nursery inspections described in subsection (a).

As added by P.L.1-1995, SEC.17. Amended by P.L.43-1999, SEC.1.

IC 14-24-5-3

Certification of nursery stock; preferred fumigation treatment

Sec. 3. (a) The division shall issue a certificate following an inspection that discloses that the nursery stock is apparently free from pests and pathogens.

(b) The certificate shall be prepared on a commission form and must state the following:

- (1) That the nursery stock has been inspected by the division.
- (2) That to the best knowledge and belief of the nurseryman, the nursery stock is free from pests and pathogens.

(c) A copy of the certificate must be attached to each package of nursery stock before shipment of the stock by a nurseryman.

(d) A certificate issued under this section expires September 30 following the date of issuance.

(e) The division shall communicate to nurserymen that methyl bromide soil fumigation is preferred to produce pest and disease free forest seedlings. Fumigation with methyl bromide of seedling beds before seeding is an official control treatment to assure pest free nursery stock.

As added by P.L.1-1995, SEC.17. Amended by P.L.69-2009, SEC.11.

IC 14-24-5-4

Labels on nursery stock

Sec. 4. Every package of nursery stock shipped into Indiana from another state must be labeled on the outside with the following:

- (1) The name of the consignor.
- (2) The name of the consignee.
- (3) A certificate from the other state showing that the contents have been examined and found free from pests and pathogens.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-5

Duties regarding imported nursery stock

Sec. 5. (a) A person that receives nursery stock from a foreign country shall notify the division of the arrival and contents of the shipment and the name of the consignor.

(b) The person shall hold the shipment unopened until inspected or released by the division.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-6

Right of entry upon premises

Sec. 6. The division may enter upon any premises in Indiana and examine the trees, plants, shrubs, vines, fruit, and propagated material on the premises in the discharge of the division's duties under this chapter.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-7

Notice to destroy pests or pathogens

Sec. 7. (a) If a pest or pathogen is discovered by an inspection under this chapter, the division shall provide a written notice to the person that owns or controls the premises or plant where the pest or pathogen is located.

(b) The notice must include the following:

(1) A description of the action that is needed to destroy or control the pest or pathogen.

(2) The date by which the action must be taken.

(c) The notice may provide that infested plants may not be sold or transported from the site of inspection until the pest or pathogen is successfully treated.

(d) A written notice issued under this section is effective when served. A person that is aggrieved by the notice may request administrative review under IC 4-21.5-3-6. In addition, an aggrieved person may seek temporary relief from the notice under IC 4-21.5-4. Unless otherwise agreed to by the parties, a hearing on temporary relief must be conducted within five (5) days of receipt of the hearing request in the county where the infested plants are located.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-8

Notices of violation

Sec. 8. (a) The division may issue a notice of violation to a person against whom a written notice is directed under section 7 of this chapter if the person does not:

(1) comply with the directives contained in the notice; or

(2) request a hearing under section 7(d) of this chapter.

This subsection does not preclude the issuance of a notice of violation if the department receives a final determination in the department's favor from the review of a written notice issued under section 7 of this chapter.

(b) A notice of violation issued under subsection (a) may be accompanied by a civil penalty, which may not exceed five hundred dollars (\$500) for each day a violation continues.

(c) A notice of violation and a penalty issued under this section is subject to IC 4-21.5-3-6.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-9

Nonvital plants

Sec. 9. (a) If as a result of an inspection under this chapter, a plant is discovered that is not vital, the division may direct that the plant not be sold or given away.

(b) A person that rehabilitates a plant described in subsection (a) may request the division to reinspect the plant and declare the plant to be vital.

(c) A person that is aggrieved by a determination made under this section may request a proceeding under IC 4-21.5-3-6.

As added by P.L.1-1995, SEC.17.

IC 14-24-5-10

Inspection required for renewal of license to sell or ship nursery stock

Sec. 10. (a) A person that desires to renew a license to sell or ship nursery stock must make a written application on a commission form before July 1 of the year of renewal for an inspection of the nursery stock.

(b) A person that does not comply with this section is liable for extra charges to cover the traveling expenses incurred by the division in performing the inspection.

As added by P.L.1-1995, SEC.17.