

NIPM Item #3

REGULATIONS FOR NURSERY INSPECTIONS AND NURSERY STOCK CERTIFICATES

Any person producing and/or selling nursery stock is required to comply with the standard of cleanliness and other requirements of this article. California Nursery Stock Certificates may be issued by the Commissioner or the Department for use on shipments of nursery stock, including seed, by any shipper complying with the requirements of this article. Shipments bearing valid certificates may move to counties without being held for inspection at destination. Specific County requirements and quarantine regulations may restrict movement of some kinds of nursery stock from certain areas.

3060. Nursery and Seed Inspection.

Definitions. The following definitions, in addition to those stated in Subarticle 10 Sections 25-49 and 5001-5008 of the Food and Agricultural Code, apply to this article.

(a) "Qualified nursery and seed inspector" means a representative of the County Agricultural Commissioner who:

(1) Possesses a State certificate of qualification in Nursery and Seed Regulation and Plant Quarantine and Pest Detection, or

(2) A member of a Commissioner's staff possessing required experience and education, studying for State certification, and working under the supervision of a qualified nursery and seed inspector.

(b) "Noxious weed seed" is as defined in Subarticle 10 Section 52256 of the Food and Agricultural Code.

(c) "Turf" means field cultivated turfgrass sod consisting of grass varieties, or blends of grass varieties, and Dichondra for use in residential and commercial landscapes.

Note: Authority cited for Sections 3060 through 3060.5: Sections 407, 6901-6904, 6961-6970, and 52333, Food and Agricultural Code.

Reference: Sections 5821-5827, 6901-6904, 6961, 6965, 6968, and 52333, Food and Agricultural Code.

3060.1. Inspection of Nurseries.

(a) Each Commissioner shall inspect nursery stock, other than seed, which is being grown or sold as often as is required to assure compliance with pest cleanliness.

Note: Authority cited: Sections 407, 6502, 6901, and 6902, Food and Agricultural Code.

Reference: Sections 6502, 6901-6904, and 6961, Food and Agricultural Code.

3060.2. Standard of Cleanliness.

Any person selling, handling or growing nursery stock, other than seed, produced, held, or offered for sale, shall maintain the following standard of cleanliness of nursery stock in his possession.

(a) All nursery stock shall be kept commercially clean in respect to established pests of general distribution. Commercially clean shall mean that pests are under effective control, are present only to a light degree, and that only a few of the plants in any lot or block of nursery stock or on the premises show any infestation or infection, and of these none show more than a few individuals of any insect, animal or weed pests or more than a few individual infestations of any plant disease.

(b) All nursery stock shall be kept free of:

(1) Pests of limited distribution including pests of major economic importance which are widely, but not generally distributed, except as provided in section 3060.4 (a)(1)(C) below; and

(2) Pests not known to be established in the State. Included in the meaning of this paragraph is that turf shall be kept free of noxious weeds.

(c) Where the Commissioner or Secretary determines that a history of weed pest problems exists, turf shall be grown on soil treated with methyl bromide in accordance with treatment and handling procedures approved by the Department. Weed pests established in and around the growing grounds shall be controlled to a point that they are not likely to infest the growing turf. In addition, the Commissioner or Secretary may require clean following, trap cropping, or other cultural controls as may be necessary to assure the pest cleanliness of the turf when shipped.

Note: Authority cited: Sections 407 and 6901, Food and Agricultural Code.

Reference: Sections 6901-6904, Food and Agricultural Code.

3060.3. Plants That Are Pests.

A plant that is a pest does not meet the standards of cleanliness contained in Section 3060.2 and may not be produced, held or offered for sale as nursery stock.

(a) All plants defined as a noxious weed under Title 3, California Code of Regulations, Section 4500, are a pest plant.

Note: Authority cited: Sections 407, 5322 and 6901, Food and Agricultural Code.

Reference: Sections 403, 407, 5322 and 6901, Food and Agricultural Code.

3060.4. Enforcement.

(a) The Commissioner shall keep records of inspections made and of orders issued to enforce this article.

(1) Inspections of the growing grounds, storage yards, and sales places of nursery stock, other than seed, shall be performed by a qualified nursery and seed inspector who shall make a sufficient examination of all varieties and all lots or blocks of nursery stock and all established plants, appliances, and other things thereon as may be necessary to determine compliance with this article.

(A) The inspection shall be substantiated by the filing with the Commissioner of a report of such inspection showing the names of pests and infested or infected host plants and their location in the nursery, and the disposition of all blocks of stock found infested or infected to a degree greater than the minimum requirements of this article.

(B) The Commissioner or the Director may require by a written order that any nursery stock found infested or infected with a pest shall be isolated or safely delimited in a manner approved by the Commissioner or the Director, and may specify that the pest shall be controlled or eradicated, or that the infested or infected plants shall be disposed of in a manner satisfactory to the Commissioner or the Director within a reasonable specified length of time.

(C) The Secretary may permit nursery stock which may be infested with pests, subject to quarantine regulations or Section 3060.2(b)(1), to be sold for planting or for resale for planting, within the area under quarantine or area infested with a specified pest, where the nursery stock is offered for sale, provided that:

1. A quarantine or other pest shall not be eligible for movement as described in this section unless it has been so designated herein by the Secretary (the Secretary has designated *Homalodisca vitripennis*, glassy-winged sharpshooter, as eligible for movement as described in this section); and
2. The nursery stock is moved between points within the area under quarantine or within the area infested with the specified pest and involves no movement outside thereof; and
3. The pest is not under eradication in the quarantine or infested area; and
4. Movement of the nursery stock is not specifically prohibited by the quarantine regulation or local ordinance; and
5. The nursery stock is commercially clean.

(D) Nursery stock which does not meet the standards of cleanliness prescribed in Subarticle 10 Section 3060.2 shall not be sold except as provided in (C) above or under a written agreement between the buyer and seller which discloses the following:

1. Failure to comply with the standards of cleanliness;
2. Affirmation of the buyer's agreement to purchase the stock on an "as is" basis; and
3. Written agreement by the destination department of agriculture the stock for planting by the buyer or resale at retail for non-farm use in the destination county or state.

(2) Inspection of seed for the purpose of issuing nursery stock certificates shall be in accordance with the methods prescribed for official sampling and examination of seed for noxious weed seed under the California Seed Law. Sampling and examination shall be performed by a qualified nursery and seed inspector or by a seed botanist of the Department. The inspection is to be substantiated by the filing with the Commissioner of a report by the inspector for each six-month period showing that the shipper has complied with this article.

(b) Notification.

(1) When an application to sell nursery stock is received from a person not previously licensed at the location involved, the Director shall notify the Commissioner allowing 15 days for the Commissioner to make whatever recommendations he deems appropriate regarding the issuance of the license.

(2) Upon receipt of notice from the Commissioner that a licensee or applicant for a license has failed to comply with the standard of cleanliness set forth herein or has failed to comply with a written order issued by the Commissioner, the Director will take appropriate action against the application or license involved.

(3) The Commissioner shall notify the Director of the issuance, suspension, or revocation of nursery stock certificates to any shipper.

(4) The Commissioner shall notify the Director when a shipment of nursery stock from within the State is found infested or infected with a pest in violation of the standard of cleanliness herein established.

(c) Suspension. The use of nursery stock certificates shall be suspended, as to all nursery stock, other than seed, or as to infested or infected and exposed host plants:

(1) Upon finding in the nursery any new pest, determined by the Director to be of serious importance to agriculture or pending such determination, until isolation, clean up, or eradication in a manner approved by the Director is complied with; or

(2) Upon finding in the nursery any pest that is required by this article to be kept under intensive control until either

(A) All hosts or carriers likely to be infested or infected are prohibited movement by a written hold order or

(B) Adequate precautions or intensive control measures have been applied which will assure the pest cleanliness of hosts or carriers when shipped; or

(3) Upon finding in the nursery an infestation or infection or any established pest of general distribution in a degree greater than commercially clean, until such infestation or infection is controlled to the satisfaction of the Commissioner or Director.

(d) Revocation. Nursery stock certificates shall be revoked:

(1) As to nursery stock, other than seed, upon repeated findings within the preceding twelve months that the shipper has failed to maintain the standard of cleanliness herein prescribed;

(2) As to nursery stock, including seed, upon finding that the shipper has violated any law or regulation pertaining to nursery stock, including seed, or the requirements of this article.

(e) Refusal. Issuance of nursery stock certificates may be refused if during the preceding twelve months:

(1) An authorization of the shipper to use nursery stock certificates has been revoked; or

(2) The shipper has failed or refused to comply with any law or regulation pertaining to nursery stock or pests; or

(3) Conditions in or around the nursery have exposed nursery stock to infestation by pests, including weed seeds, and for which adequate precautions or control measures cannot be or have not been applied.

Note: Authority cited: Sections 407, 6901 and 6961, Food and Agricultural Code.
Reference: Sections 6901-6904 and 6961, Food and Agricultural Code.

3060.5. Certificates.

(a) Form of Certificates.

(1) Nursery stock certificates shall be in essentially the following form:

**CALIFORNIA NURSERY STOCK
CERTIFICATE FOR
INTERSTATE AND INTRASTATE SHIPMENTS**

No.: _____

This plant material or nursery or premises from which this shipment was made has been inspected and found free from especially injurious plant pests and disease symptoms

**THIS SHIPMENT NEED NOT BE HELD
FOR INSPECTION IN CALIFORNIA**

Issued by: _____
and California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
66-119 (2-97)

(2) Certificates shall bear an identification number issued or Authorized by the Commissioner.

(3) A Commissioner may either issue certificates or authorize a shipper to reproduce a facsimile of the nursery stock certificate in the form and manner approved by the Commissioner. Such certificates shall be reproduced in a legible and conspicuous manner.

(b) Use of Certificates.

(1) No nursery stock certificate shall be used:

(A) On any shipment of nursery stock, other than seed, any portion of which was grown by a nursery not eligible to use nursery stock certificates, unless such portion of the shipment is duly inspected and found to meet the minimum requirements for pests set forth herein;

(B) By any person other than the shipper to whom issued;

(C) On any shipment of nursery stock for which movement from certain areas is restricted by specific California quarantine regulations unless accompanied by the required quarantine certificate or permit;

(D) On any shipment into any county where such movement is restricted by a requirement of the Commissioner of the county of destination pursuant to Subarticle 10 Sections 6505 and 6961 of the Food and Agricultural Code;

(E) On any shipment of plants not in compliance with the minimum standards of cleanliness prescribed in this article.

(2) The Commissioner may affix a nursery stock certificate on a noncommercial shipment of plants which the Commissioner inspects and finds to meet the requirements of this article.

Note: Authority cited: Sections 407, 6901-6904, 6961, and 52333, Food and Agricultural Code.
Reference: Sections 6901-6904, 6961, and 52333, Food and Agricultural Code.

3060.6. Requirements of Shippers of Nursery Stock Removed from Established Plantings.

(a) Nursery stock also includes trees, shrubs, or other plants which are removed from established farm or landscape plantings or from their native habitat for planting, propagation or ornamentation. A license to sell nursery stock is required for sale of such nursery stock.

(b) Such nursery stock shall not be moved unless accompanied by a shipping permit issued by the Commissioner, or a nursery stock certificate if all conditions for its issuance have been met. Nursery stock found not in compliance with the standard of cleanliness, or for which an adequate inspection cannot be made, or on a property infested with a pest described in paragraph (b) of Subarticle 10 Section 3060.2, shall be placed under hold order until brought into compliance or adequately inspected, unless movement of such stock is permitted only under restriction with the knowledge of the Commissioner at point of destination and the person receiving the stock. The Commissioner shall notify the Director when finding nursery stock has been moved in violation of this article.

Note: Authority cited: Sections 407, 6901-6904, 6961, and 52333, Food and Agricultural Code.
Reference: Sections 5701, 6721, 6901-6904, 6961, 6965, and 6968, and 52333, Food and Agricultural Code.