

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER h: PESTS AND PLANT DISEASES

PART 240
INSECT PEST AND PLANT DISEASE ACT

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AUTHORITY: Implementing and authorized by The Insect Pest and Plant Disease Act [505 ILCS 90].

SOURCE: Rules and Regulations Relating to The Insect Pest and Plant Disease Act, filed October 25, 1974, effective November 2, 1974; codified at 5 Ill. Rev. 10523; amended at 6 Ill. Reg. 3041, effective March 5, 1982; amended at 7 Ill. Reg. 1764, effective January 28, 1983; amended at 12 Ill. Reg. 8299, effective May 2, 1988; amended at 26 Ill. Reg. 14661, effective September 23, 2002.

SUBPART A: NURSERY AND NURSERY STOCK; INSPECTION; CERTIFICATES

Section 240.10 Storage and Display of Nursery Stock

Persons and firms maintaining sales yards, stores, garden centers or any place where nursery stock is sold must keep their nursery stock stored or displayed under conditions which will maintain its vigor and it must be prevented from becoming devitalized or weakened by drying or excessive heat or cold by protecting the roots with dampened shavings, sawdust, shingle tow, peat moss or any other similar material.

(Source: Rules and Regulations Relating to The Insect Pest and Plant Disease Act, filed Nov. 17, 1977, eff. Jan. 1, 1978)

Section 240.20 Inspection of Shipments of Nursery Stock in Transit

All shipments of nursery stock entering the state, as well as intrastate shipments, may be inspected in transit or at their destination in order to determine whether or not they are moving in compliance with the provision of the Illinois Insect Pest and Plant Disease Act. Factors influencing decision to inspect nursery stock include origin of plant material, destination of and probable distribution subsequently, whether or not a quarantine or other requirements exist relative to either geographic area, plant species or pests, personnel and budgetary restrictions.

(Source: Amended at 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.30 Infested or Infected Shipments of

Nursery Stock; Disposal or Treatment

Shipments of nursery stock which upon inspection are found to be infested with injurious insect pests or infected with injurious plant diseases shall be treated or disposed of in whole or in part at the recommendation of the Department. Disposed means to eradicate the disease or pest by cutting, removing or destroying the infested or infected material or to return it to its state or country of origin. Section 15 of the Act requires the owner or person in charge of infested or infected stock to eradicate, control or prevent the dissemination of injurious insects or plant diseases. In accordance with its authority under Section 3 of the Act, the Department will, at the expense of the owner or person in charge, treat, remove, cut or destroy infested or infected material if the owner or person in charge fails, neglects or refuses to do so. If the owner or person in charge fails, neglects or refuses to treat or dispose of the infested or infested material within 10 days from the date notice of infestation or infection and the Department's recommendation is given the owner or person in charge, the Department will give written notice of and hold an administrative hearing to determine whether to treat or dispose of the infested or infected material. The Department will consider when determining whether to treat or dispose of the infested or infected material the type of infestation or infection, its harmful effect, the manner in which the pest or disease spreads, known available treatments, cost factors of treatment versus disposal, and amount and type of infested or infected material.

(Source: Amended at 7 Ill. Reg. 1770, eff. Jan. 28, 1983)

Section 240.40 Listing of Other States' Certified Nurseries

Each state from which nursery stock is shipped to the State of Illinois shall provide the Department with an up-to-date certified copy of that state's certified nurseries and nursery dealers.

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988)

Section 240.50 Revocation of Certificates

Nurserymen's certificates and dealers' certificates may be revoked by the Director of Agriculture, State of Illinois, for violation of the Illinois Insect Pest and Plant Disease Act, (Ill. Rev. Stat. 1981, ch. 5, pars. 61 et seq.) or the rules thereto as promulgated by the Department. Revocation hearings and decisions of Department personnel are subject to 8 Ill. Adm. Code 240.160.

(Source: Amended at 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.60 Special Certification: Sales, Trades, and Auctions by Garden

Clubs and Social Organizations

A garden club or social organization may request the Department to inspect plants or nursery stock that it is planning to sell, trade, or auction. The request for inspection shall be made to the Department in writing or by telephone at least ten (10) days prior to the time of the intended sale, trade, or auction. A certificate of inspection shall be issued if the inspection reveals the plants or nursery stock are apparently free from insect pests and plant diseases. If the inspection reveals plant diseases or insect pests, the Department shall follow the procedure set forth in Section 22.04 of the Act. This inspection service and the certificate shall be provided according to the fee schedule established for special inspections in Section 240.140.

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988)

Section 240.70 Special Certification: Plants and Nursery Stock Shipped by Individual Residents

Special certificates verifying plants and nursery stock are apparently free of insect pests and plant diseases shall be issued to residents of this State on individual shipments to destinations limited to states within the continental boundary of the United States after proper inspection has been made and if plants and nursery stock meet the health specifications of the state of destination. Inspection service and certificates will be provided according to the fee schedule established for Special Inspections.

(Source: Amended at 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.80 Inspection of Private Premises, Public Grounds and Forest Preserves

The Department of Agriculture shall inspect private premises, public grounds and forest preserves when requested by the owner or custodian of same, to determine their freedom from insect pests and plant diseases and prescribe control measures for same, except that actual inspection will not be made in cases where Department personnel can diagnose through information available the type of infection or infestation and prescribe the methods for control, treatment or eradication. Inspection service and certificates will be provided according to the fee schedule established for Special Inspections.

(Source: Amended at 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.90 Inspection of Native Trees for Resale

Native trees dug and collected by a nurseryman or nursery dealer shall be inspected and be certified free of insect pests and plant diseases. Inspection may be done at the digging or unloading site at the Department's discretion. Inspection and certification of native dug trees shall be provided at no additional charge to the nursery inspection fee, provided the Department is given at least three (3) days notice in writing or

by telephone so the inspection can be included as part of the inspector's regularly scheduled trip.

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988)

Section 240.100 Refusal to Inspect Nursery

The Department may refuse to inspect a nursery if it is not kept in a reasonably well cultivated condition and free from weeds so that the inspector is able to make an adequate inspection of the nursery stock in order to determine its freedom from insect pests and plant diseases.

(Source: Rules and Regulations Relating to The Insect Pest and Plant Disease Act, filed Nov. 17, 1977, eff. Jan. 1, 1978)

Section 240.110 Sale of Nursery Stock Which is Infected Prohibited

Nursery stock in nurseries, or parts thereof, found to contain any injurious plant diseases or insect pests as defined shall be withheld from sale and the stock treated, or otherwise disposed of in accordance with the written instructions of the Director of Agriculture, or his designated agents, and no plants may be removed from such area until these instructions have been complied with.

(Source: Rules and Regulations Relating to The Insect Pest and Plant Disease Act, filed Nov. 17, 1977, eff. Jan. 1, 1978)

Section 240.120 Nursery Certificates Withheld or Qualified Certificates Issued

If upon completion of regular inspection the Department determines that treatment or disposal of stock infested with insect pests or injurious diseases is required and instruction for same are provided, nursery certificates shall be withheld or qualified until specified corrective measures are completed and the nursery can be certified as healthy.

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988)

Section 240.130 Inspection of Shipments for Foreign Countries

The Director of Agriculture, or his designated agent, shall issue upon request special certificates to residents of this State on nursery stock, bulbs, seed and other plant materials for shipment to a foreign country when required by the country of destination and if material is in compliance with the plant inspection and plant quarantine regulations of the country of destination. Inspection service and certificates will be provided according to the fee schedule established.

(Source: 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.140 Fee Schedule

The Department shall charge and collect fees for inspection and issuance of certificates according to the following schedule:

a) Nursery Inspection

1	Acre	\$15.00
1.0 - 5.0	Acres	\$20.00
5.1-10	Acres	\$25.00
11-50	Acres	\$35.00
51-100	Acres	\$50.00
101-250	Acres	\$100.00
251-500	Acres	\$125.00
Over 501	Acres	\$0.35 per acre

Effective January 1, 2003, the nursery inspection fees shall be as follows:

1 acre or less	\$25.00
over 1 acre but less than or equal to 5 acres	\$30.00
over 5 acres but less than or equal to 10 acres	\$40.00
over 10 acres but less than or equal to 50 acres	\$50.00
over 50 acres but less than or equal to 100 acres	\$75.00
over 100 acres but less than or equal to 250 acres	\$150.00
over 250 acres but less than or equal to 500 acres	\$180.00
over 500 acres (per acre)	\$0.50

b) Greenhouses

Greenhouses that request inspection shall be charged the special inspection and certificate fees in Section 240.140(d).

c) Nursery Dealer Certificates

Nursery dealer certificates shall be provided at the rate of \$15.00

Effective January 1, 2003, the rate for a nursery dealer certificate shall be \$25.00.

d) Special (Requested) Inspections

Special inspections shall be charged at the rate of \$15.00 per hour or any fraction thereof of inspector's time (the time that it takes for the inspector to travel from the nearest field office to the inspection site, one-way only, shall be included in computing the inspector's time). Individual certificates for special inspections shall be charged at the rate of \$10.00 per certificate.

Effective January 1, 2003, the inspection rate charged for special inspections shall be \$25.00 per hour and the rate charged for individual certificates for special inspections shall be \$25.00 per certificate.

e) Original Certificates

An original certificate, which is required to accompany nursery stock and/or plants and plant products for shipment or sale verifying same free of insect pests and plant diseases, shall be issued at the rate of \$10.00 each when no inspection is required.

Effective January 1, 2003, the rate for original certificates shall be \$25.00 each.

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988; amended at 26 Ill. Reg. 14661, eff. Sept. 23, 2002)

Section 240.150 Use of the Department of Agriculture for Advertising (Repealed)

(Source: Repealed at 7 Ill. Reg. 1764, eff. Jan. 28, 1983)

Section 240.160 Administrative Rules (Formal Administrative Hearings; Contested Cases; Petitions; Administrative Procedures)

All administrative decisions are subject to, and hearings are conducted in accordance with, the provisions of this Act and the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1).

(Source: Amended at 12 Ill. Reg. 8299, eff. May 2, 1988)

SUBPART B: QUARANTINE

Section 240.250 Scope

To prevent the spread of dangerous plants or dangerous plant pests or dangerous disease throughout the State, the Director shall implement a plant or plant pest quarantine when he/she has determined that a dangerous plant or dangerous plant insect or plant disease has been found within the State and presents a significant risk to the production of agricultural or horticultural crops or to other plants which are essential to maintaining the ecosystem and the aesthetic enjoyment thereof.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.260 Definitions

- a) "Certificate" - A document issued or authorized to be issued by the Director to allow the movement of regulated articles to any destination.
- b) "Compliance Agreement" - A written agreement between a person engaged in growing, handling, or moving regulated articles and the Director, wherein the former agrees to specified conditions and/or requirements so as to remain compliant with the terms of the quarantine.

- c) "Control Area" - An infestation area requiring control measures to eradicate or reduce, consistent with the Department of Agriculture's objective, the pest population which with or without proper control presents a significant risk for spreading the pest to other areas.
- d) "Director" - The Director of the Illinois Department of Agriculture or his/her authorized representative.
- e) "Infestation" - The presence of the pest or the existence of circumstances that make it reasonable to believe that the pest is present.
- f) "Inspector" - Any employee of the Illinois Department of Agriculture or any other person authorized by the Director to enforce the provisions of a quarantine.
- g) "Limited Permit" - A document issued or authorized to be issued by the Director to allow the movement of non-certifiable regulated articles to a specified destination for limited handling, utilization, processing, or treatment.
- h) "Moved (Movement, Move)" - Shipped, offered for shipment to a common carrier, received for transportation or transported, moved or allowed to be moved, by any person by any means. Movement and move shall be construed accordingly.
- i) "Person" - Any individual, corporation, company, society, association, or other organized group of any of the foregoing.
- j) "Pest" - The dangerous plant or dangerous plant insect or dangerous plant disease which the Director has determined should not be allowed to spread throughout the State and for which control measures may be recommended.
- k) "Regulated Area" - Any civil division or any portion thereof that is under quarantine and for which it has been designated that the movement of articles is regulated.
- l) "Restricted Destination Permit" - A document issued or authorized to be issued by the Director to allow movement of regulated articles not certifiable under applicable State and Federal plant quarantines to a specified destination for other than scientific purposes.
- m) "Scientific Permit" - A document issued by the Director to allow the movement of regulated articles to a specified destination for scientific purposes.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.270 Restrictions and Regulated Articles

- a) A quarantine will include specific restrictions on movement into, out of, or through the quarantine area.

- b) A quarantine will delimit the area to be quarantined by commonly accepted and readily identifiable boundaries. The boundary may be changed to include contiguous areas when the Director has determined the quarantined pest has spread thereto.
- c) A quarantine will specify the articles to be regulated and, if required, those exempted.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.280 Movement of Regulated Articles

- a) Articles regulated under one specific quarantine must meet the applicable requirements of any other federal and state quarantines.
- b) A quarantine will specify the condition that shall govern the movement of regulated articles and may include, but not be limited to, permits, certificates of inspection and/or compliance agreement.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.290 Issuance and Cancellation of Permits, Certificates of Inspection or Compliance Agreements

- a) To carry out inspections of regulated articles with the agency's limited resources, the Director may require that regulated articles be assembled for inspection.
- b) The Director through a specific quarantine may require that he/she be provided with advance notice of a person's need for quarantine related inspection in order that the Director can meet the obligations of the quarantine while maintaining routine activities.
- c) A quarantine will specify the terms and conditions for issuance of certificates, permits, agreements as appropriate for the pest and regulated area.
- d) Permits, certificates, agreements shall be cancelled by the Director when he/she finds, and after notice and reasonable opportunity to present views has been accorded to all parties, that any person has failed to comply with provisions of the quarantine or failed to comply with the provisions of any agreement.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.300 Attachment of Certificates, Permits or Agreements

- a) For the movement of regulated articles, the certificate, permit or agreement shall be securely attached to the outside of the container in which such articles are moved; except where the certificate or

permit is attached to the waybill or other shipping document, it need not be attached to each article or container.

- b) In all cases, certificates, permits or agreements shall be furnished to the consignee at the destination of the shipment. A quarantine will specify whether or not certificates, permits or agreements may be reproduced for purposes of accompanying shipment.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.310 Inspection and Disposal of Regulated Articles

Any properly identified designated representative of the Director is authorized to stop, inspect, and/or order treatment or disposal (by destruction or return to state of origin) of uncertified or non-permitted regulated articles or any infected regulated article found to be in violation of the Act.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)

Section 240.320 Duration of Quarantine

- a) A quarantine will specify the beginning effective date.
- b) Each quarantine will be announced through public meeting held in the regulated area and various public announcements in the mass communication media reaching the regulated area and may be posted in public information notice boards in the regulated area for 15 days after the effective date.
- c) If the Director determines that the quarantine pest no longer poses a threat of spread he/she shall, after notice and reasonable opportunity for presentation of views has been accorded through a public information meeting in the regulated area, cancel or modify a quarantine.
- d) If control measures are undertaken and the Director determines that they have been effective and the quarantine pest is no longer a threat, the Director shall order the quarantine cancelled or modified.

(Source: 6 Ill. Reg. 3041, eff. March 5, 1982)