

18H.02 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Agent.** "Agent" means a person who, on behalf of another person, receives on consignment, contracts for, or solicits for sale on commission, a plant product from a producer of the product or negotiates the consignment or purchase of a plant product on behalf of another person.

Subd. 3. **Annual.** "Annual" means a plant growing in Minnesota with a life cycle of less than one year.

Subd. 4. **Certificate.** "Certificate" means a document authorized or prepared by a federal or state regulatory official that affirms, declares, or verifies that a plant, product, shipment, or other officially regulated item meets phytosanitary, nursery inspection, pest freedom, plant registration or certification, or other legal requirements.

Subd. 5. **Certification.** "Certification" means a regulatory official's act of affirming, declaring, or verifying compliance with phytosanitary, nursery inspection, pest freedom, plant registration or certification, or other legal requirements.

Subd. 6. **Certified nursery stock.** "Certified nursery stock" means nursery stock which has been officially inspected by the commissioner and found apparently free of quarantine and regulated nonquarantine pests or significant dangerous or potentially damaging plant pests.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designated employee, representative, or agent.

Subd. 8. **Consignee.** "Consignee" means a person to whom a plant, nursery stock, horticultural product, or plant product is shipped for handling, planting, sale, resale, or any other purpose.

Subd. 9. **Consignor.** "Consignor" means a person who ships or delivers to a consignee a plant, nursery stock, horticultural product, or plant product for handling, planting, sale, resale, or any other purpose.

Subd. 10. **Container-grown.** "Container-grown" means a plant that was produced from a liner or cutting in a container.

Subd. 11. **Department.** "Department" means the Minnesota Department of Agriculture.

Subd. 12. **Distribute.** "Distribute" means offer for sale, sell, barter, ship, deliver for shipment, receive and deliver, offer to deliver, receive on consignment, contract for, solicit for sale on commission, or negotiate the consignment or purchase in this state.

Subd. 12a. **Dormant.** "Dormant" means nursery stock without etiolated growth.

Subd. 12b. **Etiolated growth.** "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight.

Subd. 12c. **Individual.** "Individual" means a human being.

Subd. 13. **Infected.** "Infected" means a plant that is:

- (1) contaminated with pathogenic microorganisms;
- (2) being parasitized;
- (3) a host or carrier of an infectious, transmissible, or contagious pest; or

(4) so exposed to a plant listed in clause (1), (2), or (3) that one of those conditions can reasonably be expected to exist and the plant may also pose a risk of contamination to other plants or the environment.

Subd. 14. **Infested.** "Infested" means a plant has been overrun by plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Subd. 15. [Repealed, 1Sp2005 c 1 art 1 s 98]

Subd. 16. **Mark.** "Mark" means an official indicator affixed by the commissioner for purposes of identification or separation to, on, around, or near plants or plant material known or suspected to be infected with a plant pest. This includes, but is not limited to, paint, markers, tags, seals, stickers, tape, ribbons, signs, or placards.

Subd. 16a. **Nonhardy.** "Nonhardy" means a plant that cannot be expected to survive or reliably produce flowers and fruit in average minimum winter temperatures at the growing site as determined by the commissioner based upon independent field trials and industry input represented by the United States Department of Agriculture Plant Hardiness Zone designations.

Subd. 17. **Nursery.** "Nursery" means a place where nursery stock is grown, propagated, collected, or distributed, including, but not limited to, private property or property owned, leased, or managed by any agency of the United States, Minnesota or its political subdivisions, or any other state or its political subdivisions where nursery stock is fumigated, treated, packed, or stored.

Subd. 18. **Nursery certificate.** "Nursery certificate" means a document issued by the commissioner recognizing that a person is eligible to sell, offer for sale, or distribute certified nursery stock at a particular location under a specified business name.

Subd. 19. [Repealed, 1Sp2005 c 1 art 1 s 98]

Subd. 20. **Nursery stock.** "Nursery stock" means a plant intended for planting or propagation, including, but not limited to, trees, shrubs, vines, perennials, biennials, grafts, cuttings, and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants. Nursery stock does not include:

- (1) field and forage crops or sod;
- (2) seeds;
- (3) vegetable plants, bulbs, or tubers;
- (4) cut flowers, unless stems or other portions are intended for propagation;
- (5) annuals; or
- (6) Christmas trees.

Subd. 21. **Nursery stock broker.** "Nursery stock broker" means a nursery stock dealer engaged in the business of selling or reselling certified nursery stock as a business transaction without taking ownership or handling the nursery stock.

Subd. 22. **Nursery stock dealer.** "Nursery stock dealer" means a person involved in the acquisition and further distribution of certified nursery stock; the utilization of certified nursery stock for landscaping or purchase of certified nursery stock for other persons; or the distribution of certified nursery stock with a mechanical digger, commonly known as a tree spade, or by any other means. A person who purchases more

than half of the certified nursery stock offered for sale at a sales location during the current certificate year is considered a nursery stock dealer rather than a nursery stock grower for the purposes of determining a proper fee schedule. Nursery stock brokers, landscapers, and tree spade operators are considered nursery stock dealers for purposes of determining proper certification.

Subd. 23. **Nursery stock grower.** "Nursery stock grower" includes, but is not limited to, a person who raises, grows, or propagates nursery stock, outdoors or indoors. A person who grows more than half of the certified nursery stock offered for sale at a sales location during the current certificate year is considered a nursery stock grower for the purpose of determining a proper fee schedule.

Subd. 24. **Owner.** "Owner" includes, but is not limited to, the person with the legal right of possession, proprietorship of, or responsibility for the property or place where any of the articles regulated in this chapter are found, or the person who is in possession of, proprietorship of, or has responsibility for the regulated articles.

Subd. 24a. **Packaged stock.** "Packaged stock" means bare root nursery stock packed with the roots in moisture-retaining material encased in plastic film or other material designed to hold the moisture-retaining material in place.

Subd. 25. **Person.** "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, unincorporated organization, the state, a state agency, or a political subdivision.

Subd. 26. **Place of origin.** "Place of origin" means the county and state where nursery stock was most recently certified or grown for at least one full growing season.

Subd. 27. **Plant.** "Plant" means a plant, plant product, plant part, or reproductive or propagative part of a plant, plant product, or plant part, including all growing media, packing material, or containers associated with the plants, plant parts, or plant products.

Subd. 28. **Plant pest.** "Plant pest" means a biotic agent that causes or may cause harm to plants.

Subd. 28a. **Pollinator lethal insecticide.** "Pollinator lethal insecticide" means an insecticide absorbed by a plant that makes the plant lethal to pollinators. Pollinator lethal insecticide includes, but is not limited to, the neonicotinoid class of insecticides that affect the central nervous system of pollinators and may cause pollinator paralysis or death.

Subd. 29. **Public nuisance.** "Public nuisance" means:

(1) a plant, appliance, conveyance, or article that is infested with plant pests that may cause significant damage or harm; or

(2) premises where a plant pest is found.

Subd. 30. **Quarantine.** "Quarantine" means an enforced isolation or restriction of free movement of plants, plant material, animals, animal products, or any article or material in order to treat, control, or eradicate a plant pest.

Subd. 31. **Regulated nonquarantine pest.** "Regulated nonquarantine pest" means a plant pest that has not been quarantined by state or federal agencies and whose presence in plants or articles may pose an unacceptable risk to nursery stock, other plants, the environment, or human activities.

Subd. 32. **Sales location.** "Sales location" means a fixed location from which certified nursery stock is displayed or distributed.

Subd. 32a. **Sod.** "Sod" means the upper portion of soil that contains the roots of grasses and the living grass plants.

Subd. 33. **Tree spade.** "Tree spade" means a mechanical device or machinery capable of removing nursery stock, root system, and soil from the planting in one operation.

Subd. 34. **Tree spade operator.** "Tree spade operator" means a person who uses a tree spade to dig, sell, offer for sale, distribute, or transport certified nursery stock.

Subd. 35. **Tropical plant.** "Tropical plant" means a plant that has a United States Department of Agriculture hardiness zone designation of zone 6 or greater, or an annual minimum hardiness temperature of -9 degrees Fahrenheit.

History: 2003 c 128 art 5 s 1; 1Sp2005 c 1 art 1 s 41-46; 2009 c 94 art 1 s 69-72; 2012 c 244 art 1 s 11,12; 2014 c 299 s 1; 1Sp2015 c 4 art 2 s 15-17