

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

PLANT INDUSTRY

ADMINISTRATIVE CODE

CHAPTER 80-10-1 NURSERY AND NURSERY STOCK

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80-10-1-.01 Definitions. Nursery stock shall include all plants, trees, shrubs, vines, cuttings, and grafts, scions and buds grown or kept for or capable of propagation, distribution or sale.*

*Notice the deletion of the phrase “provided, that vegetable, grass and other soft-wood herbaceous plants shall not be considered nursery stock except when grown by a producer of hardwood plants then it becomes nursery stock and subject to fees based on acreage and other requirements that govern the sale of nursery stock.”

Authors: Charles H. Barnes, John P. Hagood

Statutory Authority: Code of Ala. 1975, §§2-25-4, 2-25-6.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992. **Amended:** Filed August 16, 2004; effective September 20, 2004.

80-10-1-.02 Inspection Required Before Certificate Issued.

(1) No inspection certificate shall be issued for the sale, offering for sale or movement of any nursery stock until the stock in question shall have been inspected by the Commissioner and found to be apparently free from seriously injurious plant pests.

(2) The nursery must be in such condition, in regard to growth, cultivation, and weed control as to permit an efficient inspection for plant pests.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.03 Certificate Fee Schedule.

(1) Nurserymen shall pay annual inspection certificate fees based on the **previous year's volume of sales** in nursery stock. Where stock is grown at more than one location, fees shall be based on the aggregated **previous year's volume of sales**, unless the nurseryman requests separate certification, as follows:

<u>Previous Year's Gross Sales of Production Fee</u>	
Less than \$100,000.....	\$ 35.00
\$100,000.01 to \$500,000.....	\$ 75.00
\$500,000.01 to \$1,000,000.....	\$125.00
\$1,000,000.01 to \$1,500,000.....	\$200.00
More than \$1,500,000.....	\$230.00

(2) A person who requests an inspection and a certificate for plants not defined herein as nursery stock, for any movement or sale, may be provided such services on the same basis as if the plant material shall be subject to the same laws and rules as if the person was a nurseryman and the plant material was nursery stock.

(3) A dealer in nursery stock shall pay an annual certificate fee of **\$20.00** for each separate location or place of business from which nursery stock is sold or offered for sale.

(4) These certificates expire September 30, the end of the fiscal year for which they are issued.

Authors: Charles H. Barnes, John P. Hagood

Statutory Authority: Code of Ala. 1975, §§2-25-4, 2-56-6.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992. **Amended:** Filed August 16, 2004; effective September 20, 2004.

80-10-1-.04 Inspection Of Plants Not Considered Nursery Stock.

(1) Growers of plants not considered as nursery stock by Alabama but classified as nursery stock by other states who wish to make shipments into states requiring that an inspection certificate accompany such plants, must make application for inspection services and pay the required inspection fee before such certificate can be issued.

(2) Such person and such plant material shall be subject to the same laws and rules as if the person was a nurseryman and the plant material was nursery stock.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.05 Keeping Of Records. Every nurseryman and dealer must retain for three years all invoices showing source and date of purchase of all nursery stock. Such records must be made available upon request by the Commissioner during normal business hours.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.06 Filing Of Duplicate Certificates And Reciprocal Agreements.

(1) Out-of-state nurseries and dealers must file with the Commissioner a duplicate certificate of inspection issued by the official certifying agency of the state of origin. An official list of certified nurseries and/or dealers issued by the official certifying agency of the state of origin may be substituted for duplicate certificates. The Commissioner may enter into reciprocal agreements with the certifying agency of other states whereby no certificate fee will be required, provided Alabama nurserymen and dealers are permitted to ship nursery stock into such states without having to pay a fee for an inspection certificate or permit granting that privilege.

(2) Nursery stock entering the State of Alabama must be certified as being apparently free from plant pests. Certificate tags issued by the official certifying agency of the state of origin stating such must be firmly attached to each box, bundle or package of nursery stock moved into the state.

(3) All other plant material entering the State of Alabama must be found apparently free from plant pests upon inspection.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.07 Certificate Tag Requirements.

(1) Each box, bundle or package of nursery stock moved into or within the State of Alabama shall have a valid official tag bearing a copy of certificate of inspection and seal of the Department of Agriculture and Industries conspicuously attached, or an inspection tag of the U.S. Department of Agriculture. Shipments of stock not thus tagged shall be liable to confiscation by the Commissioner. One tag on a container does not cover individual orders therein.

(2) Certificate tags are not required on local retail sales where such sales are made directly to the ultimate user of such nursery stock.

(3) Certificate tags of a standard design and size may be secured through the Commissioner.

(4) The certified nurseryman or dealer may print certificate tags at their own expense, provided:

(a) the plates or proofs are examined and approved by the Commissioner prior to printing; but

(b) these certificate tags are subject to confiscation by the Commissioner for cause.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.08 Requirements To Sell Native Wild Plants. Any person collecting native wild plants for the purpose of sale must take out an annual inspection certificate on the same basis as a dealer. Each load or lot collected must be inspected by the Commissioner before being offered for sale. Requests for inspection at a specified time must be made in advance.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.09 Revocation Of Inspection Certificates And Tags. Any certificate or permit may be revoked and any certificate tags recalled at any time for violation of the provisions of Chapter 25, Title 2 Code of Ala. 1975, or the rules and regulations of the State Board of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.10 Transit Inspections. All shipments of nursery stock coming into the state as well as intrastate shipments are subject to inspection in transit or at destination at the option of the Commissioner, and if found infested with any serious plant pests, may be returned to the consignor, treated, destroyed, or otherwise disposed of as the Commissioner may deem advisable and direct. In case the shipment is returned to the consignor or treatment is ordered, same shall be at the expense of the consignor.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.11 Special Permits.

(1) For those desiring to make complimentary shipments of nursery stock, inspections will be made of such shipments and if plants are found apparently free of plant pests, special permit tags will be issued.

(2) Special permits may be issued for the entrance into Alabama of any quarantine plants, seeds, plant products, plant pests, or noxious weeds that are needed for experimental purposes by the U.S. Department of Agriculture, or by the Alabama Agricultural Experiment Station, or by any other appropriate agency; provided that the Commissioner is satisfied that such movement does not harm or threaten Alabama's agricultural or horticultural interests.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed April 19, 1982. **Amended:** Filed May 19, 1992.

80-10-1-.12 Exemptions. Public agencies which produce nursery stock for sale or distribution shall be exempt from payment of certificate of inspection fees provided:

- (a) such nursery stock is produced substantially for educational or research purposes, and
- (b) the gross income from sale of such nursery stock is under \$25,000 annually, and
- (c) the public agency meets all other requirements for a certificate of inspection, and
- (d) the public agency submits a letter to the Commissioner requesting exemption and certifying compliance with (a) and (b) above.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-25-4.

History: Filed May 19, 1992.
