



5 of 2041 DOCUMENTS

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RULE PROPOSALS

**AGRICULTURE
DIVISION OF PLANT INDUSTRY**

42 N.J.R. 2519(a)

Proposed Readoption: N.J.A.C. 2:19

[Click here to view Interested Persons Statement](#)

Sale and Distribution of Plants and Plant Material

Authorized By: Douglas H. Fisher, Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:7-1 et seq., 4:1-21.2 and 4:1-21.5.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-272.

Submit written comments by December 31, 2010 to:

Carl P. Schulze Jr., Director
Division of Plant Industry
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330
Telephone: (609) 292-5441

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1c, N.J.A.C. 2:19 expires on May 28, 2011. The

Department of Agriculture has reviewed the rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order. Authority to prevent the importation or distribution of diseased plant material is authorized under N.J.S.A. 4:7-5 et seq. Virus-infected rose plants cause a serious economic loss to both the grower that sells them and the consumer who buys them. Since the virus infection remains in the plant for its entire life, and spraying cannot destroy the virus, it is important that infected plants be controlled at the source before entering New Jersey.

Subchapter 1 is reserved.

Subchapter 2 describes the manner in which rose plants are to be shipped into, and within the State of New Jersey. It states that virus infected plants are to be considered a nuisance and only rose plants inspected for symptoms of virus infection during the growing season by a state inspector in the state in which they were grown can be shipped into New Jersey. Also, all shipments must carry certification of visual freedom from virus disease from the state of origin.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption will have a positive social impact. Continued implementation of the rules will result in hardier, more beautiful and healthier plants being provided to the general public.

The rules benefit all consumers purchasing rose plants while maintaining the integrity of the industry. Increased sales of healthy rose plants should easily offset the costs of compliance.

Economic Impact

The rules proposed for readoption will have a positive impact on the quality of rose plants grown and distributed in the State. Although producers of roses will bear the primary cost of compliance, it is anticipated that some portion of these costs will eventually be passed to the consumer in slightly higher retail prices.

The cost to the grower of producing virus-free rose plants adds approximately \$ 0.05 per plant. Since these rules went into effect in 1991, there has been a substantial decrease in the number of virus-infected rose plants entering New Jersey due to producer compliance. Consequently, the Department has had to order fewer plants destroyed or returned to the supplier. Furthermore, since virus infected plants cannot be sold to the public, these rules have reduced the number of plants condemned by the Department at garden centers, and therefore, there has been a lessening in the disruption of retail sales.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal standards or requirements that apply to the subject matter of the rules proposed for readoption.

Jobs Impact

The rules proposed for readoption are not expected to result in the generation or loss of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption should have a positive impact on New Jersey's agriculture industry. The rules will afford protection to growers and plant dealers from the introduction, distribution and sale of virus-infected roses in the State. Additionally, readoption of these rules will help to minimize the disruption of commerce when large numbers

of virus infected plants are detected by the Department and ordered destroyed. Plant dealers will be more careful in the selection of growers where they obtain rose plants, to avoid purchasing virus infected stock, and the consumer will benefit by purchasing healthier plants.

Regulatory Flexibility Analysis

The majority of nurseries and plant dealers qualify as small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for reoption apply to all nurseries and plant dealers offering roses for sale. Recordkeeping requirements imposed by these rules require the maintenance of inspection certificates received from suppliers for the current season, to be made available for [page=2520] verification upon request of the Department. Historically, the Department has found that most nurseries and plant dealers utilize one to four suppliers of rose plants, requiring the filing and maintenance of one to four inspection certificates. No professional services are likely to be needed to comply with these rules.

To the extent that these rules add a better quality product to the stream of commerce and decrease the number on virus infected plants shipped to the State, the reoption of these rules will be beneficial to both small businesses and consumers, alike. No differentiation in requirements based upon business size is, therefore, provided.

Smart Growth Impact

These rules proposed for reoption implement economic development strategies outlined in the Department's Smart Growth Plan. The rules proposed for reoption are consistent with the State's smart growth goals as they encourage the continued viability of the State's nursery industry. Therefore, the Department anticipates that there will be a positive impact on the achievement of smart growth and the implementation of the State's Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for reoption will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules prevent the movement into the State of diseased, virus infected rose plants.

Smart Growth Development Impact

The rules proposed for reoption will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in house production in Planning Areas 1 or 2 within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules prevent the movement into the State of diseased, virus infected rose plants.

Full text of the rules proposed for reoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:19.