

CHAPTER 120. FRUIT TREE IMPROVEMENT PROGRAM

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The provisions of this Chapter 120 adopted September 30, 1977, effective October 1, 1977, 7 Pa.B. 2791, unless otherwise noted.

PRELIMINARY PROVISIONS

§ 120.1. Purpose.

Deciduous fruit trees may be registered for the purpose of providing seed, rootstock and scion sources for the propagation of virus-certified nursery stock when inspected, tested and found to be true-to-name and free from virus and

virus-like diseases detectable by procedures outlined in the FTIP. The Department is responsible for the program implementation and operation.

§ 120.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Bureau—The Bureau of Plant Industry of the Department.

Department—The Department of Agriculture of the Commonwealth.

FTIP—Fruit Tree Improvement Program.

Foundation block—An isolated planting of registered trees, maintained by the Department to serve as the primary source of propagating material for commercial production.

Index—To test a plant for virus infection by means of inoculation from the plant to be tested to an indicator plant or by other standard procedures.

Indicator plant—A woody or herbaceous plant used for detecting viruses.

Nuclear block—A planting of indexed trees, maintained and continuously protected from virus reinfection in a greenhouse that serves as the source of propagating material for a foundation block.

Nursery increase block—A planting of nursery stock, originating from registered seed and scion sources, used for increasing registered trees.

Off-type—Possessing characteristics different from the variety or cultivar listed on the application.

Penn premium-certified—Department approved fruit tree nursery stock produced from registered rootstock and scion sources.

Penn standard-certified—Department approved fruit tree nursery stock produced from registered scion sources and nonregistered seed sources or from Department-approved scion sources and nonregistered rootstock sources.

Registered tree—A specific tree used as a seed, rootstock or scion source that has been routinely inspected and indexed by the Department and found to be free from detectable viruses.

Scion block—A planting of registered trees, maintained by a commercial nurseryman, that serves as a source of propagating material.

Seed block—A planting of registered trees, maintained by a commercial nurseryman, that serves as a source of seed.

Stool bed—A planting of registered clonally propagated trees that are used exclusively for producing vegetatively propagated rootstocks.

Virus-infected—The presence of a virus in a plant or plant part.

Virus-like—A disorder of unknown cause displaying symptoms commonly associated with known virus diseases.

REQUIREMENTS FOR REGISTRATION AND CERTIFICATION**§ 120.11. General.**

Participation in the FTIP shall be voluntary. Once a written request to participate in the FTIP is received by the Department, no participant may withdraw until the end of the calendar year. Registration or certification of fruit trees will not imply any warranty or guarantee on the part of the Department or any employee thereof, beyond the terms of the FTIP.

§ 120.12. Responsibility of applicant.

The applicant nurseryman shall be responsible, subject to approval by the Department, for the selection of the location and the proper maintenance of registered plantings being grown under the provisions of the FTIP. The applicant shall be responsible for maintaining the identity of nursery stock entered in the FTIP in a manner approved by the Department.

§ 120.13. Location of plantings.

(a) Each planting location shall be subject to approval by the Department and shall be in an area having minimal risks for spread of infectious pests by drainage, flooding, irrigation or other means.

(b) A scion block may not be located within 300 feet of any nonregistered plant of the same genus. Volunteer or wild fruit trees of the same genus within 500 feet, further if practical, shall be eradicated. Herbicide programs approved by the Department shall be followed in registered plantings. Registered scion block trees may not be used for propagation purposes until trueness-to-name has been established. Each tree shall bear a permanent registration number.

(c) Registered scion block trees shall have originated from the foundation or nuclear block maintained by the Department or other sources approved by the Department.

(d) A seed block may not be located within 300 feet of a nonregistered plant of the same genus. The rootstock and scion sources and the maintenance of seed block trees shall be the same as outlined under this section.

§ 120.14. Certified nursery stock.

(a) Fruit tree nursery stock being grown for Penn Premium-certification shall be on rootstocks approved by the Department and shall originate from registered seed trees or from registered stool beds. Fruit tree nursery stock being grown for Penn Standard-certification may be grown on noncertified rootstocks, however registered scion sources should be used when available.

(b) Penn Premium- and Penn Standard-certified nursery stock shall be planted sufficiently apart to maintain their identity and may not be located within 300 feet of a commercial planting of stone or pome fruit. All certified nursery stock shall be designated as to topstock, interstock and rootstock sources. There may be no

rebudding or regrafting of nursery row stock unless the stock is reworked from the same registered scion sources as used originally.

(c) Certified nursery stock shall have been produced on soils that received a preplant nematicide or that were sampled before planting and found to be free from virus vector nematodes (*Xiphinema* spp.).

(d) Nursery stock meeting the requirements of the FTIP, when sold, shall have the variety, interstock and rootstock designated, where applicable, as follows: variety/interstock/rootstock.

§ 120.15. Establishment and maintenance of plantings.

(a) Plantings entered in the FTIP shall be kept in a thrifty growing condition and pests shall be effectively controlled. Suitable precautions shall be taken in cultivation, irrigation, movement and use of equipment and in other farming practices to guard against spread entered in the FTIP.

(b) To assure that the inspections required by this chapter may be made properly and to provide close working knowledge of field operations, the nurseryman shall notify the Department, in advance, of removal of nursery stock or trees entered in the FTIP so that approval can be granted before the work is done. There may be no budding, grafting or top working of registered trees in any scion block, seed block or stool bed.

(c) Labeling of each registered tree and of nursery stock growing in plantings entered in the FTIP to identify it as to rootstock and scion sources shall be done in manner approved by the Department.

§ 120.16. Eligibility.

(a) Any type of deciduous tree fruit, when approved by the Department, is eligible for entry in the FTIP as provided in this chapter. To be acceptable for registration or to be eligible for any planting entered in the FTIP, a plant shall have been tested and found to be free from detectable viruses. Patented clones shall be certified true to type and may be accepted providing written permission is obtained from the patent holder or his assignee allowing propagation for experimental manipulation and incorporation into the repository. Release of patented clones in the repository will be made only to the patent holder or his assignee during the duration of patent rights. Patented clones may not be entered in the program unless they have indexed negative for known viruses.

(b) For registration of a tree in a scion orchard, the Department will be notified at the time of planting of the intention of the applicant to seek registration, and application for registration shall be filed at least 2 years before propagating material is needed.

INSPECTION AND TESTING

§ 120.21. Procedure.

Inspection and testing procedures prescribed in the FTIP may be carried out only by the Department or by a subcontract approved by the Department and shall be conducted in a manner and at times approved by the Pennsylvania FTIP Advisory Committee. The Department will use the best available indexing procedures. A description of current indexing or procedures will be furnished upon request.

§ 120.22. Tagging and identity.

(a) *Tagging.* The Department will authorize the use of official certification tags for the identification of nursery stock or seed that meet the requirements of the FTIP.

(b) *Identity.* A person selling Pennsylvania certified fruit tree nursery stock or seed is responsible for the identity of the stock bearing each tag and for the nursery stock meeting the requirements of the FTIP. Persons issued tags authorized by the FTIP shall account for stock produced and sold and keep the records required by the Department.

ENFORCEMENT

§ 120.31. Refusal, suspension or cancellation.

Registration or certification may be refused, suspended or cancelled for any plants in part or all of a planting under any of the following conditions:

- (1) The requirements of this chapter have not been met.
- (2) The plant is found to be virus-infected or off-type.
- (3) A registered tree is found upon indexing to be virus-infected.
- (4) The pest control requirements for nursery stock in the nursery inspection regulations of The Pennsylvania Plant Pest Act of 1937 (3 P. S. §§ 214-1—214-25) have not been met.
- (5) For any reason the identity of a plant becomes uncertain or has not been properly maintained.
- (6) A registration number is misused.
- (7) The status of nursery stock produced under the provisions of the FTIP is knowingly misrepresented.

APPLICATION AND FEES

§ 120.41. Application.

Application for certification shall be made yearly on or before January 30 by contacting the Fruit Tree Improvement Program, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania, 17120.

§ 120.42. Fees.

Revenues to aid in the support of the FTIP and related research will be generated by a fee imposed on each participating nursery amounting to 1% of the gross sales received by that nursery for fruit trees produced by them and sold during the participating year. Payments should be made on or before December 15 for trees sold during that calendar year. Checks should be made payable to the Commonwealth of Pennsylvania and mailed to the Fruit Tree Improvement Program, Bureau of Plant Industry, Department of Agriculture, Harrisburg, Pennsylvania, 17120.

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