Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 06 PLANT PEST CONTROL

Chapter 04 Regulation of Invasive Plants

Authority: Agriculture Article, §9.5-301, Annotated Code of Maryland

.*01 Scope.*

*These regulations establish a science-based risk assessment protocol to determine the harm and impact caused by invasive plants, including an approval procedure for activities involving invasive plant species that cause or are likely to cause severe harm and administrative orders that the Secretary may issue to enforce these regulations.*

*.02 Definitions.*

*A. In this chapter, the following terms have the meanings indicated.*

*B. Terms Defined.*

*(1) “Invasive Plant” means a terrestrial plant species that:*

 *(a) Did not evolve in the State; and*

 *(b) If introduced within the State, will cause or is likely to cause, as determined by the Secretary:*

 *(i) Economic harm;*

 *(ii) Ecological harm;*

 *(iii) Environmental harm; or*

 *(iv) Harm to human health.*

*(2) “Tier 1 invasive plant” includes invasive plant species that cause or are likely to cause severe harm within the State.*

*(3) “Tier 2 invasive plant” includes invasive plant species that cause or are likely to cause substantial negative impact within the State.*

*.03 Risk Assessment Protocol for Invasive Plants*

*The Secretary shall determine whether an invasive plant qualifies as a Tier 1 or a Tier 2 plant based on the following:*

*(1) Plant risk assessment protocol established by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection Quarantine pursuant to, Koop, A., L. Fowler, L. Newton, and B. Caton. 2012. Development and validation of a weed screening tool for the United States. Biological Invasions 14(2):273-294.; and*

 *(2) Factors relating to special Maryland circumstances (e.g. potential distribution, current distribution, threatened and endangered species or ecosystems, feasibility of control, and special agricultural conditions).*

*.04 Tier 1 Approval Process.*

*A. Unless a person receives prior approval from the Secretary as provided by this regulation, a person may not propagate, import, transfer, sell, purchase, transport, or introduce any living part of a Tier 1 invasive plant in the State.*

*B. A written request for approval shall be submitted to the Secretary with the following information:*

*(1) Name;*

*(2) Business, nursery or plant dealer license # if applicable;*

*(3) Phone;*

*(4) Email;*

*(5) Tier 1 plant for which approval is being requested, full botanical name;*

*(6) Specific location of the Tier 1 plant;*

*(7) Proposed activity;*

*(8) Method of safeguarding from propagule dispersal;*

*(9) Time-frame of the proposed activity; and*

*(10) Any other information required by the Secretary.*

*C. The Secretary may not approve any person’s request for approval for any activity involving a Tier 1 invasive plant unless the activity is for any of the following purposes:*

*(1) Disposing of the invasive plant;*

*(2) Controlling the invasive plant;*

*(3) Using the invasive plant for research or educational purposes; or*

*(4) Exporting the invasive plant out of the State.*

*D. Upon notice and an opportunity to be heard:*

*(1) The Secretary may withdraw or revoke any approval for any person who violates any condition of any approval by the Secretary;*

*(2) Revise any approval as provided in the permit, based on new information obtained after an approval is granted.*

*.05 Administrative Orders By The Secretary.*

*A. The Secretary may issue administrative orders to enforce the provisions of this Chapter and Title 9.5 (Invasive Plants Prevention and Control) of the Agriculture Article, Annotated Code of Maryland, as follows:*

*(1) Order any person to cease propagating, importing, transferring, selling, purchasing, transporting, or introducing any living part of a Tier 1 invasive plant in the State;*

*(2) Order the condemnation and seizure of any Tier 1 plant owned or possessed by any person who violates § 9.5-302(a)(2) of the Agriculture Article, Annotated Code of Maryland;*

*(3) Order the marking or tagging in a conspicuous manner of a Tier 1 plant owned or controlled by any person subject to an order of the Secretary under this Chapter;*

*(4) Order any person, on notice from the Secretary, to dispose of any Tier 1 plant that is held in violation of this Chapter or in violation of Title 9.5 of the Agriculture Article, Annotated Code of Maryland. The Secretary may order the destruction of a Tier 1 plant in a manner that renders all plant parts nonviable, or allow a person to return a Tier 1 plant to the out-of-state supplier of the plant, as approved in advance by the Secretary;*

*(5) Order a person to make any Tier 1 plant available to the Secretary for destruction if the person has failed to dispose of the Tier 1 plant as ordered by the Secretary and require that person to pay any destruction cost;*

*(6) Order any person to cease selling or offering for sale at any retail outlet a Tier 2 invasive plant until the retail outlet posts in a conspicuous manner in proximity to all Tier 2 plant displays a sign identifying the plants as Tier 2 plants;*

*(7) Order any person to cease providing landscaping services to plant or supply for planting a Tier 2 invasive plant, if the person fails to provide the customer with a list of Tier 2 invasive plants; or*

*(8) Order a person to take any action that the Secretary considers necessary to enforce the requirements of Title 9.5 of the Agriculture Article, Annotated Code of Maryland.*

*B. A person who violates any order issued by the Secretary is subject to a civil penalty not to exceed $500 for each violation.*