



Plant Industries Division
West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-2212

Kent Leonhardt
Commissioner

REGULATIONS GOVERNING THE DISTRIBUTION
OF PLANT MATERIAL IN WEST VIRGINIA

The West Virginia Plant Pest Act (Chapter 19, Article 12 of the Code of West Virginia, as amended) governs the sale and distribution of plant material in West Virginia. Under the provisions of the Plant Pest Act, hardy, woody-stemmed perennial plants, like trees, shrubs and woody vines (with the exception of cut Christmas trees), as well as sod and sod-producing plants are defined as nursery stock and are regulated by the West Virginia Department of Agriculture. It is unlawful for anyone to expose or offer for sale, sell, deliver or give away any plants or parts of plants commonly known as nursery stock unless that person has first secured a certificate of registration from the Commissioner of Agriculture.

Bedding Plants, Vegetable Plants, Indoor Plants

Bedding plants, vegetable plants, bulbs, herbaceous perennials and indoor plants are not considered to be nursery stock. There are currently no regulations governing the in-state sale or distribution of these plants.

Nursery

A Nursery Registration Certificate from the West Virginia Department of Agriculture must be obtained by individuals prior to selling or distributing nursery stock they themselves have grown from seeds, cuttings, liners or similar propagative material. A thirty dollar (\$30.00) fee is charged annually for a Nursery Registration Certificate. The certificate of registration must be conspicuously displayed at the location where nursery stock is being offered for sale. A registered nursery with one or more sales locations separated from the parent nursery need not register each separate sales location, but must have a copy of the registration certificate displayed at each separate sales location. Nurserymen who operate garden centers, landscape businesses or other outlets where nursery stock obtained from other sources is distributed must, in addition to registering as a nursery, register each outlet as a Nursery Dealership and provide the West Virginia Department of Agriculture with the sources of the nursery stock being distributed from these outlets.

Nursery Dealer

Individuals who sell, offer for sale, expose for sale, or distribute nursery stock, they themselves did not grow from seeds, cuttings, liners or similar propagative material but which was either bought, received on consignment or otherwise acquired and in their possession must obtain a Nursery Dealer Certificate from the West Virginia Department of Agriculture. Each separate sales location shall constitute a dealership. A sixty dollar (\$60.00) fee for each dealership up to and including five (5) dealerships and eighty dollars (\$80.00) for each dealership thereafter is charged annually. The certificate of registration must be conspicuously displayed at each dealer location.

Expiration of Certificates

All certificates of registration expire on June 30 of each year.

Inspection of Nursery Stock

All nursery stock in the custody of any nurseryman or nursery dealer shall be subject to inspection for the purpose of detecting injurious plant pests. Infected or infested stock found during these inspections will be placed under a stop-sale order. The owner or person in charge of infected or infested stock may be ordered to take such measures as are necessary to control the pest problem, before said nursery stock can be offered for sale or distribution.

Nursery Stock to Carry Inspection Certificate

It shall be unlawful to transport or deliver any nursery stock which has not been inspected and which does not carry an inspection certificate attached to each carload, truckload, box, bale, package or item.

Collecting Native Plants

Any person collecting native (wild) nursery stock in West Virginia must apply for and receive a Nursery Dealer's Certificate prior to actually digging and/or selling any such collected stock, unless such person is already certified as a nurseryman. Any person who anticipates the digging and/or offering for sale of collected native nursery stock shall make proper application for inspection prior to collecting each individual shipment.

Noxious Weeds

The following plants have been declared noxious weeds and are not permitted to be shipped into West Virginia without a permit from the Commissioner of Agriculture for the State of West Virginia:

Autumn olive (*Elaeagnus umbellate*)
Honeysuckle, Morrow's (*Lonicera morrowii*)
Honeysuckle, Tartarian (*Lonicera tartarica*)
Japanese barberry (*Berberis thunbergii* DC)
Japanese knotweed (*Polygonum cuspidatum*)
Japanese stiltgrass (*Microstegium vimineum*)
Johnsongrass (*Sorghum halepense*)
Kudzu (*Pueraria thunbergiana* (S and Z) Benth)
Marijuana (*Canabis sativa*)

Mile-a-minute (*Polygonum perfoliatum*)
Multiflora rose (*Rosa multiflora*)
Opium poppy (*Papaver somniferum*)
Poison hemlock (*Conium maculatum*)
Purple loosestrife (*Lythrum salicaria*)
Thistle, curled (*Carduus crispus*)
Thistle, musk (*Carduus nutans*)
Thistle, plumeless (*Carduus acanthoides*)
Tree of Heaven (*Ailanthus altissima*)

Japanese Barberry, *Berberis thunbergii* DC, is considered a noxious weed. However, the Commissioner of Agriculture may exempt certain cultivated varieties of Japanese Barberry upon determination that those varieties are sterile and pose no threat to agriculture in West Virginia.

Multiflora rose, *Rosa multiflora*, is prohibited statewide. Garden roses (hybrid teas and other varieties) may be shipped into West Virginia when they are grafted or budded onto multiflora rose root stock.

West Virginia declares narcotic drug producing plants (as defined under Title 21, USD Section 802) and plants listed as noxious weeds in the Federal Noxious Weed Act [Public Law 93-629 (7 U.S.C. 2801 et seq.; 88 Stat. 2148)] to be noxious weeds and thereby regulated by the West Virginia Noxious Weed Act.

INTRASTATE GYPSY MOTH QUARANTINE

The West Virginia Gypsy Moth Quarantine regulates the movement of certain articles that pose a significant threat of moving the gypsy moth/spongy moth, *Lymantria dispar* (L.), to uninfested areas within the state. Among the articles regulated by the quarantine are trees without roots (cut Christmas trees) and both trees and shrubs with roots and persistent woody stems (nursery stock), except if greenhouse grown throughout the year.

Nursery stock and cut Christmas trees may not be moved from a regulated county to an unregulated county within the state unless a certificate or limited permit has been issued and is attached to the regulated article(s) or to the invoice, waybill or other shipping document which accompanies the regulated articles.

Counties regulated by the quarantine include the following: Barbour, Berkeley, Braxton, Brooke, Calhoun, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Lewis, Marion, Marshall, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Raleigh, Randolph, Ritchie, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt, Wood, and Wyoming.

WHITE PINE BLISTER RUST QUARANTINE

As the alternate hosts for the destructive disease of white pine known as white pine blister rust, all species of currants and gooseberries, *Ribes* spp., including any plants, cuttings, viable seeds, or parts of these plants capable of propagation are prohibited from entering the following 23 counties: Barbour, Fayette, Grant, Greenbrier, Hampshire, Hardy, Harrison, Marion, Mercer, Mineral, Monongalia, Monroe, Nicholas, Pendleton, Pocahontas, Preston, Raleigh, Randolph, Summers, Taylor, Tucker, Upshur, and Webster.

European black currant, *Ribes nigrum*, may not be moved to any destination in West Virginia.

BLACK STEM RUST QUARANTINE

Japanese Barberry, *Berberis thunbergii* DC, is considered a noxious weed and its distribution is prohibited within or into WV.

Other species of *Berberis* (barberry), *Mahonia* (Oregon grape, Mahonia, hollygrape) and *Mahoberberis* (Mahoberberis) are capable of harboring the destructive disease Black Stem Rust, *Puccinia graminis*, of wheat, oats, barley, rye, and many wild and cultivated grasses. Since this disease can result in material financial loss to growers of these crops in West Virginia, a quarantine has been established throughout the State prohibiting the maintenance, propagation, sale, and movement within the State of all species and varieties of *Berberis*, *Mahonia*, and *Mahoberberis* determined to be the alternate hosts of Black Stem Rust, including any plants, cuttings, stocks, scions, buds, fruits, seeds or parts of these plants capable of propagation.

All species and varieties of *Berberis*, *Mahonia*, and *Mahoberberis* are considered rust-susceptible except those tested and designated as rust-resistant or immune by the United States Department of Agriculture (USDA). Except for the noxious weed prohibition of Japanese barberry (*Berberis thunbergii*), no restrictions are placed by these regulations on the movement, planting or growing within the State of any species or varieties of *Berberis*, *Mahonia*, or *Mahoberberis* designated as immune or rust-resistant by the USDA. However, all shipments and/or individual packages of rust-resistant *Berberis*, *Mahonia*, or *Mahoberberis* plants, seeds, or parts capable of propagation, must be plainly labeled or stamped as to the botanical species or variety and must be plainly marked with the name and address of consignee and consignor.

For a list of *Berberis*, *Mahonia*, or *Mahoberberis* varieties determined to be rust-resistant by the USDA, contact Plant Industries Division at (304) 558-2212.

PENALTY FOR VIOLATION

Any person violating any of the provisions of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense; and for the second offense, fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), or imprisoned in the county jail not more than six months, or both fined and imprisoned. The Commissioner of Agriculture for the State of West Virginia may assess a civil penalty in lieu of pursuing a criminal penalty.