

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter B. Diseases and Pests

Part 50. Rules on Plant Diseases and Pests

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"CIRCULAR 11

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This circular is issued in September, 1997, by the Arkansas State Plant Board. Other rules issued by the Plant Board are covered in other circulars. Address correspondence to State Plant Board, P.O. Box 1069, Little Rock, AR 72203."

"ARKANSAS STATE PLANT BOARD

Under Authority of:

The Plant Act of 1917 (A.C.A. "2-16-201 through 214)

Emergency Plant Act of 1921 (A.C.A. "2-16-301 through 310) Nursery Fraud Act (A.C.A. "2-21-101 through 113)

Arkansas Boll Weevil Suppression Eradication Act (A.C.A "2-16-601 through 617)"

Subpart 1. Public Nuisance — Prohibited Plants

2 CAR § 50-101. Public nuisance declared.

(a)(1) The following plant diseases, insect pests, and noxious weeds, under the provisions of the Arkansas Plant Act of 1917, Arkansas Code § 2-16-201 et seq., are hereby declared to be a public nuisance, including anything infected, infested, or contaminated therewith.

(2)(A) The extent to which these plant diseases, insect pests, and noxious weeds are regulated is covered in this part and other State Plant Board circulars.

(B) *Italicized pests are intent of horticulture inspections.*

(b) Plant disease pests listed:

- (1) *Chestnut blight* (chestnut and chinquapin);
- (2) *Phony peach, peach mosaic, and peach rosette;*
- (3) Fusiform and other gall rusts of pines;
- (4) Texas root rot (cotton and other plants);
- (5) *Oak wilt (oak, chestnut, and other trees and shrubs);*
- (6) *Cedar-apple rust;*
- (7) *Fire blight (pear, apple, and other plants);*
- (8) *Root knot nematode;*
- (9) *Soybean cyst nematode;*
- (10) *Foliar nematodes (Aphelenchoides besseyi and others);*
- (11) *Crown gall and other infectious galls;*
- (12) *Hairy root of apple and rose;*
- (13) *Bacterial spot of peach;*
- (14) *Strawberry dwarf;*
- (15) *Red stele of strawberry;*
- (16) *Virus diseases on horticultural crops;*
- (17) *Strawberry yellows (genetic);*
- (18) *Infectious cankers;*
- (19) *Bacterial spot of tomato;*
- (20) *Alternaria and septoria leaf spots of tomato;*
- (21) *Late blight of tomato;*
- (22) *Camellia petal blight;*
- (23) *Azalea petal blight;*
- (24) Hoja blanca disease of rice;
- (25) *Internal cork of sweet potato;*
- (26) *Black rot of sweet potato;*

- (27) *Stem rot of sweet potato;*
- (28) *Anthracnose on various host plants;*
- (29) *Pink root of onion;*
- (30) Sting nematode;
- (31) *Blights and leaf spots damaging to plants;*
- (32) *Collar rot;*
- (33) *Dutch elm disease;*
- (34) *Phloem necrosis;*
- (35) *Bud rot on strawberries;*
- (36) *Fusarium wilt of tomatoes (all races);*
- (37) *Blueberry nursery stock diseases;*
- (38) *Pinewood nematode;*
- (39) Blackleg of rape; and
- (40) *Rose rosette.*

(c) Insect pests listed:

- (1) Pink bollworm (cotton and okra);
- (2) *Sweet potato weevil;*
- (3) Fruit flies (fruit and vegetable), does not apply to *Drosophila*;
- (4) Khapra beetle and other stored grain insects;
- (5) Bruchids and other pest of seeds (seeds of crops and other plants);
- (6) *Japanese Beetle (trees, fruits, vegetables, and other plants);*
- (7) *Gypsy and brown/ail moths and other leaf-feeding insects (trees, shrubs, and other plants);*
- (8) *Fire ant, Argentine ant, carpenter ant, and other injurious ants;*
- (9) *Vegetable weevil;*
- (10) *White-fringed beetle;*
- (11) European chafer;
- (12) Termites;
- (13) Powderpost beetles;
- (14) *San Jose scale and other scale insects;*

- (15) *Woolly aphids*;
- (16) *White flies*;
- (17) *Strawberry crown borer*;
- (18) *Pine tip moth and other insects attacking pine shoots*;
- (19) Oriental fruit moth;
- (20) *Borers of all kinds*;
- (21) *European red mite and other spider mites*;
- (22) *Bagworms and other leaf-eating insects*;
- (23) *Thrips*;
- (24) *Aphids*;
- (25) Harlequin bugs;
- (26) Roaches and other household insect pests;
- (27) *Elm leaf beetle*;
- (28) Cereal leaf beetle;
- (29) Southern pine beetle;
- (30) *Brown garden snail, or any other plant destroying snail*; and
- (31) Asian ambrosia beetle.

(d) Noxious weeds listed:

- (1) Field bindweed (*Convolvulus arvensis*);
- (2) *Nut grass* (*Cyperus rotundus*);
- (3) *Wild onion and/or wild garlic* (*Allium* spp.);
- (4) Johnson grass (*Sorghum halepense*);
- (5) Dodder (*Cuscuta* spp.);
- (6) Bermudagrass (*Cynodon dactylon*);
- (7) Cheat or chess (*Bromus secalinus*) and/or (*Bromus commutatus*);
- (8) Darnel (*Lolium temulentum*);
- (9) Corncockle (*Agrostemma githago*);
- (10) Horsenettle (*Solanum carolinense*);
- (11) Purple nightshade (*Solanum elaeagnifolium*);
- (12) Buckhorn plantain (*Plantago lanceolata*);

- (13) Bracted plantain (*Plantago aristata*);
- (14) Rumex spp.;
- (15) Blueweed (*Helianthus ciliaris*);
- (16) Morning glory (*Ipomoea* spp.);
- (17) Hedge bindweed (*Calystegia sepium*);
- (18) Red rice (*Oryza sativa* var.);
- (19) Curly indigo (*Aeschynomene indica*);
- (20) Tall indigo or coffee bean (*Sesbania exaltata*);
- (21) Giant foxtail (*Setaria faberi*);
- (22) Witchweed (*Striga* spp.);
- (23) Crotalaria (*Crotalaria* spp.);
- (24) Cocklebur (*Xanthium* spp.);
- (25) Moonflower (*Calonyction muricatum*);
- (26) Alligatorweed (*Alternanthera* spp.);
- (27) Balloonvine (*Cardiospermum halicacabum*);
- (28) Itchgrass (*Rottboellia exaltata*);
- (29) Thistle (*Carduus*, *Cirsium*, *Onopordum*, *Silybum*, *Scolymus*, *Salsola*, and other genera);
- (30) Serrated tussock (*Nassella trichotoma*);
- (31) *Purple loosestrife* (*Lythrum salicaria*);
- (32) Barnyard grass (*Echinochloa crusgalli*);
- (33) Water hyacinth (*Eichhornia crassipes*, *E. azurea*);
- (34) Japanese blood grass (*Imperata cylindrica*); and
- (35) Tropical soda apple (*Solanum viarum*).

(e) Any foreign insect, plant disease, or weed which may be brought into Arkansas and whose habits and injuriousness under the conditions of agriculture in Arkansas are unknown, is regarded as dangerous and is declared to be a public nuisance.

(f) Prohibited plant list.

(1) Plants contained on the following list present such a danger to the natural ecosystems in the state that they are hereby declared prohibited.

(2) No plant, seed, or any reproductive structure may be sold or utilized in plantings in Arkansas:

- (A) Purple Loosestrife (*Lythrum salicaria*);
- (B) Giant salvinia (*Salvinia molesta*);
- (C) Water Hyacinth (*Eichornia crassipes*, *E. azurea*); and
- (D) Japanese Blood Grass (*Imperata cylindrica*).

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 2. Rules on Vegetable and Small Fruit Plants

2 CAR § 50-201. Rules on the sale of vegetable garden plants including sweet potato and strawberry plants.

(a)(1) Any person selling, offering for sale, or transplanting for sale any vegetable garden plants, including sweet potato and strawberry plants, for planting purposes within or into the State of Arkansas shall meet the following requirements.

(2) Vegetable plants grown in soilless media are exempt from this part.

(b) Sale in bulk is prohibited, except at production site to a local consumer.

(c)(1) Each container in which plants are offered for sale shall be conspicuously labeled in legible English language with the following:

- (A) Name and address of producer;
- (B) Arkansas permit number;
- (C) Varietal name; and
- (D) If sold in bundles:
 - (i) Number of plants per bundle; and
 - (ii) Number of bundles in container.

(2) The above information may be:

- (A) Stenciled, engraved, or embossed on the containers;
- (B) Printed or rubber stamped on tags or labels attached to the containers or on stakes displayed in each container; or

(C) Displayed in any combination of these methods desired by the producer.

(3)(A) In addition to the above, each bundle of sweet potato plants shall also carry an individual label showing the producer's name and address.

(B) Bundle labels shall be supplied by the producer.

(4) Every container or bundle which does not display complete labeling as described above shall be subject to an immediate stop-sale order.

(d) No Arkansas permit number shall be issued for sweet potato plants or vine cuttings originating in an area in which the sweet potato weevil is known to exist.

(e) Securing Arkansas permit numbers.

(1) Arkansas producers.

(A) Permit numbers will be assigned to Arkansas producers upon receipt of State Plant Board application forms and the required inspection fees.

(B) Even though a permit number has been assigned, no sales shall be made until a producer's plants have been inspected and found reasonably free of:

- (i) Insects;
- (ii) Diseases; and
- (iii) Noxious weeds.

(C) The board shall cancel a permit number anytime the producer's plants are found infested with insects, plant diseases, and noxious weeds which may be disseminated with the plants, as declared in 2 CAR § 50-101.

(D)(i) Producers who wish to have their own rubber stamps, printed labels, special tags or stakes made with their permit number included thereon shall file applications early enough to allow time for this.

(ii) The board does not supply labels or tags of any kind for plants.

(2) Out-of-state producers.

(A) Arkansas permit numbers may be obtained by out-of-state producers by filing:

- (i) Application forms provided by the board;
- (ii) Official certificates of inspection of state of origin; and

(iii) Appropriate annual registration fees.

(B)(i) If early application, before inspections have been made, should be necessary to allow time for the preparation of rubber stamps, printed labels, special tags, or printed stakes with the Arkansas permit number included thereon, the application shall be accompanied by a statement from a plant regulatory official of the state involved certifying that the producer's plants will be kept under periodic inspection during the shipping season and that certificates of inspection will be filed with the board as inspections are made.

(ii) The statement shall also certify that anytime a producer's plants do not pass inspection, the board shall be notified so the Arkansas permit number can be canceled.

(C) By special permission of the Director of the State Plant Board, plants may be brought into Arkansas without permit numbers, to be inspected by board inspectors at a specified destination point on arrival, and permit numbers issued if plants are found to be reasonably free of:

- (i) Diseases;
- (ii) Insects; and
- (iii) Noxious weeds.

(3) For fees or charges by the board, see Subpart 4 of this part.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-202. Special rules for the production of noncertified strawberry plants.

(a) Filing application.

(1) Application on forms furnished by the State Plant Board may be made by either the grower or by the shipper contracting for grower's plants, and must be:

- (A) Made at least ten (10) days before inspection is desired; and
- (B) Accompanied by necessary fees.

(2) To help ensure against the red stele disease, no application will be accepted on a field known to have been exposed to red stele, for example, by drainage from a known infested field, or if the mother-plants have come from a known infested field.

(3) If possible, applications should be made by September 1.

(4) If application is made by the contractor, a copy of the contract must accompany the application.

(5) Also, verification must be made as to variety, source, quantity, and quality of plants used to plant fields to be inspected.

(b) Field inspections.

(1)(A) First-year fields set with either Arkansas or out-of-state certified plants will be given fall inspection and then certified for digging, up to February 15, after which date if any plants are still undug a red stele inspection will be made, and if found satisfactory, will be reapproved.

(B) First-year fields set with noncertified plants can be given fall inspection, plus red stele inspection after March 15 or sooner if conditions are such that a satisfactory inspection can be made before that date, and then be approved.

(C) First-year fields set with noncertified plants, if they average three (3) rooted runner-plants per mother-plant at blooming time, can be inspected for red stele at blooming time and again in the fall and then be approved.

(2) Second-year fields, regardless of source of plants, can be inspected for red stele at blooming time and again in the fall and then be approved.

(3)(A) Fall inspection will be made as nearly as possible between September 1 and October 31.

(B) Inspectors will dig and examine not less than one hundred (100) plants per acre, taking plants from not less than fifteen (15) places per acre, well distributed.

(C) Fields will be condemned if more than:

(i) Three percent (3%) of plants show root-knot nematodes;

(ii) Three percent (3%) of new plants show crown borer signs; or

(iii) Ten percent (10%) of old and new plants combined show crown borer signs.

(D) Fields will be condemned if more than three percent (3%) of the plants are affected with either summer dwarf, yellows, or bud rot, except that fields containing not more than ten percent (10%) of any of these, if rogued down to the three percent (3%) tolerance and reinspected, will be passed.

(E) Fields generally or severely infested with leaf spot or scorch will be condemned.

(F) Fields containing noxious weeds, such as wild garlic or nut grass, which might be spread in the bundles of plants, will be condemned.

(G)(i) On fields which pass fall inspection, strawberry plant certificates will be issued, dated to expire February 15, under which plants from said fields may be sold up to that time.

(ii) This applies to fields set with inspected plants only.

(4) **Red stele inspection.**

(A) If fall-inspected-and-passed fields are not dug by February 15, another inspection must be made before they are sold, and if the plants are then found free of disease, a new certificate will be issued which will be valid for the remainder of the shipping season, expiring June 30.

(B)(i) Inspectors will dig and examine not less than one hundred (100) plants per acre, taking plants from a number of places well-distributed.

(ii) The location of places of digging plants shall be at the discretion of the inspector.

(iii) He or she will make every effort to dig plants in areas where red stele is likely to be most evident.

(C)(i) Plants will be examined by slicing several roots on each plant so that the stele of the root is exposed.

(ii) Should even one (1) plant show red stele, this will disqualify the entire field (suspected plants will be sent to the University of Arkansas, Plant Pathology Department for confirmation).

(c) **Certificates.**

(1) Strawberry plant certificates, both those expiring February 15 and those expiring June 30, will be issued only to the growers of the plants, for use on their own plants that are inspected and approved.

(2)(A) Nursery Certificates (or dealer's certificates), instead of strawberry plant certificates, will be issued to growers or contractors who:

(i) Deal in bought strawberry plants, in addition to their own plants;

or

(ii) Grow other nursery stock in addition to strawberry plants.

(B) A complete record of all sales must be kept by the applicant and shall be made available to the State Plant Board upon request.

(3) **Note.** For rules governing the production of certified, that is, foundation, registered, certified blue tag, or certified green tag strawberry plants, contact the board office.

(4) For fees charged, see Subpart 4 of this part, Fees.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-203. Special rules for the production of certified-seed sweet potatoes and sweet potato plants.

(a) **Filing application.**

(1)(A) Growers desiring to produce certified seed sweet potatoes must file application on forms furnished by the State Plant Board, along with the necessary fees, by June 15 of each year.

(B) Applications for the certification of sweet potato plants must be filed at least thirty (30) days prior to the bedding of the seed, along with the necessary fees.

(2) Application forms will be furnished for this purpose.

(3) Applicants must agree to:

(A) Get prior approval of bedding sites;

(B) Bed only Arkansas certified seed; and

(C) Sell only Arkansas certified plants.

(b) Inspections.

(1)(A) Fields for the production of certified seed shall be inspected twice during the growing season by board inspectors to determine freedom from:

- (i) Diseases;
- (ii) Insects; and
- (iii) Noxious weeds.

(B) To qualify, fields must be in a reasonably good state of cultivation and free enough from weeds and grass so that a complete observation of the sweet potatoes can be made at each inspection.

(C) Also, fields must be apparently free of disease, insects, and noxious weeds as declared in 2 CAR § 50-101 that might be disseminated with the seed.

(2) At least one (1) or more inspections of plant beds shall be made during the selling season, and to qualify plants must be reasonably free of diseases, insects, and noxious weeds as declared in 2 CAR § 50-101, that may be disseminated with the plants.

(3)(A) At least one (1) storage or bin inspection shall be made on seed potatoes for certification.

(B) Potatoes shall be so stored that they are accessible for a complete inspection, and no chance of contamination by other potatoes.

(C) If potatoes are found to be free of disease and insects and have qualified in other respects they are eligible for certifications.

(c) Grade standards.

(1) Seed sweet potatoes which are sold as certified shall meet the following standards.

(2) They must be:

(A) Smooth, free from:

- (i) Dirt;
- (ii) Breaks;
- (iii) Cracks;

- (iv) Serious crooks;
- (v) Bruises;
- (vi) Decay;
- (vii) Decayed spots;
- (viii) Disease sign; and
- (ix) Insect damage or signs;

(B) From one inch (1") to three and one-half inches (3 1/2") in diameter, and at least three inches (3") and not over nine inches (9") long, and not over five percent (5%) may be round, or oval shaped, unless the buyer specifies "field run" in which case any potatoes over one-half inch (1/2") in diameter may be included; and

(C) Packed in new containers.

(d) **Records.** Applicants shall keep a complete set of records in regard to sales and, upon request, records shall be made available to the board.

(e) For fees charged, see Subpart 4 of this part, Fees.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 3. Rules for Nursery Stock, Nurserymen, Nursery Dealers, Nursery Agents, and Nursery Landscape Contractors

2 CAR § 50-301. Definitions.

Nursery stock as defined in the Arkansas Nursery Fraud Act of 1919, Arkansas Code §§ 2-21-101 – 113 shall include all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, buds, fruit pits, and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-302. Sale and transportation of nursery stock.

(a)(1) All nursery stock sold or transported within or into the State of Arkansas shall have attached to the outer container thereof either a certificate of inspection or a dealer's certificate.

(2) If transported within or into the State of Arkansas by means other than a common carrier, the driver of the vehicle must have in his or her possession either a certificate of inspection or a dealer's certificate, a copy of which shall be given to the person or to each of the several persons to whom the nursery stock is delivered.

(b) Any person desiring to ship nursery stock into Arkansas shall:

(1)(A) File with the State Plant Board an official certificate of inspection showing that the nursery has been inspected and found reasonably free of:

- (i) Insect pests;
- (ii) Plant diseases; and
- (iii) Noxious weeds.

(B) Or this information may be certified to the board by the nursery inspection official of the state of origin; and

(2)(A) Attach a valid copy of the certificate of inspection of the state of origin to each package, box, or bundle of nursery stock shipped into Arkansas.

(B) On multiple-order shipments, a certificate must be attached to each individual order as well as to the outer package.

(C) On container-grown or balled-and-burlapped bulk shipments, a certificate may be attached to the invoice covering each delivery.

(c) No fee shall be charged out-of-state nurserymen or dealers who deliver nursery stock to Arkansas nurserymen and dealers, or who ship directly from their out-of-state locations to Arkansas purchasers.

(d) Any person who is selling nursery stock in person within the state directly to the consumer must obtain either a nursery dealer, nurseryman, agent, or nursery landscape contractor license and pay the prescribed annual fee.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-303. Inspection of nurseries, dealer's stocks, and sales by agents and nursery landscape contractors.

(a)(1) All nurseries shall be inspected at least once each year for insect pests, plant diseases, and noxious weeds, and a written notice of the findings of such inspection shall be given by the State Plant Board to the owner or manager of each nursery.

(2) Upon the inspection of the nursery and proper fulfillment by the nurseryman in charge thereof of the requirements and conditions contained in said notice and upon full payment of the fees and costs hereinafter prescribed, the board shall issue a certificate of inspection.

(3) Application for inspection of nurseries must be made by August 15 of each year.

(b) Nurseryman's license.

(1) Nursery dealers and/or agents are required by law to have a valid license issued by the board prior to offering for sale or selling nursery stock in Arkansas.

(2) Stock of nursery dealers and that sold by nursery agents shall be inspected from time to time, inspections to be made:

- (A) In heel yards;
- (B) In transit; and/or
- (C) After stock has been sold.

(3) Dealers must provide facilities for keeping nursery stock in viable condition, either outdoors or indoors, and inspectors will check such facilities for compliance, as well as infestation of:

- (A) Insect pests;
- (B) Plant diseases; and
- (C) Noxious weeds.

(c) Nursery dealer's license. Any dealer who holds a nursery dealer's license under the provisions of the Arkansas Nursery Fraud Act of 1919, Arkansas Code § 2-21-101 et seq., may secure a dealer's certificate by filing with the board an affidavit stating that he or she:

(1) Will keep the Director of the State Plant Board informed of the names and addresses of the nurserymen from whom he or she secured his or her nursery stock; and

(2) Will not ship under his or her dealer's certificate any nursery stock unless the grower of said nursery stock is in possession of a valid certificate or permit issued by the board.

(d) Nursery landscape contractors.

(1) Those nursery dealers involved in the installation of ornamental or horticultural plants, or offering for sale, or selling nursery stock in Arkansas, through the planting of nursery stock for compensation, are considered to be nursery landscape contractors.

(2) If not already holding a valid Arkansas nurseryman or nursery dealer's license, nursery landscape contractors will be required to obtain a valid nursery landscape contractor license issued by the board to perform such services.

(3)(A) Stock of nursery landscape contractors shall be inspected from time to time with inspections to be made:

- (i) In heel yards;
- (ii) In transit; and/or
- (iii) After stock has been planted.

(B) Inspectors will check for:

- (i) Viability of stock;
- (ii) Infestations of insects;
- (iii) Plant disease; and
- (iv) Noxious weeds.

(4)(A) Nursery landscape contractors who do not maintain a heel yard shall submit a list of no more than ten (10) contract jobs, which have been completed within the last twelve (12) months, so that inspection of plant materials can be made on site.

(B) This list of jobs must be submitted to the board by May 15 of the preceding licensed year.

(e) **Nurserymen, nursery dealers, agents, or nursery landscape contractors must make records available upon request.** Nurserymen, nursery dealers, agents, or nursery landscape contractors must make available invoices and applicable quarantine certificates on all sales of nursery stock upon request of the authorized board designees.

(f) **Limited nurseryman license.**

(1) This category is required to have a valid license issued by the board prior to offering for sale or selling nursery stock in Arkansas.

(2)(A) The limited nurseryman license is defined by selling only plants which are propagated and produced by that grower.

(B) They are not allowed to broker other regulated plants, which were produced by another grower, nor are they allowed to supply another business to sell their plant materials.

(3) The limited nurseryman license status will be limited to those producing less than five hundred square feet (500 sq. ft.) of nursery stock per year.

(4) This license does not include contracting or installation of nursery stock.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-304. Green-colored wax on nursery stock.

The sale or offering for sale of rosebushes or their nursery stock covered with green colored wax is prohibited in Arkansas.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-305. Licensing.

(a)(1) All licenses for nurserymen, nursery dealers, and nursery landscape contractors must be renewed annually.

(2) The licenses are valid from November 1 of the current year until October 31 of the following year.

(b)(1) License fees are ten dollars (\$10.00), and all facilities must be inspected before a license will be issued.

(2) See Subpart 4 of this part for fee charges.

(c) License renewal applications should be submitted to the State Plant Board to allow time for inspections, processing, and issuance to take place prior to the October 31 deadline.

(d) **Late fees.**

(1) Any application postmarked after October 31 will be subject to a late charge of fifty percent (50%) of the license and inspection fees.

(2) For fees charges, see Subpart 4 of this part, Fees.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 4. Fees

2 CAR § 50-401. Fee amounts.

(a) The following annual and/or item fees shall apply to plants and nursery stock as covered by this part:

Limited Nurseryman License	\$75.00	Includes: Container or field grown stock solely propagated by themselves of no more than 500 square feet per year. To qualify for the Limited Nurseryman License, please see 2 CAR § 50-303(f)
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Nurseryman:

Level I Inspection Fee,	\$150.00	Includes:
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including License Fee

Container Grown Stock – Less than 3 acres

Field Grown Stock – Less than 10 acres.

Level II Inspection Fee including License Fee \$300.00

Includes:

Container Grown Stock – More than 3 acres up to and including 10 acres.

Field Grown Stock – More than 10 acres up to and including 25 acres.

Level III Inspection Fee, including License Fee \$450.00

Includes:

Container Grown Stock – More than 10 acres up to and including 40 acres

Field Grown Stock – More than 25 acres up to and including 70 acres.

Level IV Inspection Fee, including License Fee \$600.00

Includes:

Container Grown Stock – More than 40 acres

Field Grown Stock – More than 70 acres

Nurseries having additional heel yards in locations or towns other than at nursery must obtain dealer's or agent's license for each sales outlet.

Nursery Certificate Tags 15¢ Each

Nursery Dealers & Agents:

Level I Inspection Fee \$140.00

Level I License Fee \$10.00

Includes:
Container Grown Stock – Up to and including 5,000 sq. ft. heel yard or display area.

Level II Inspection Fee \$290.00

Level II License Fee \$10.00

Includes:
More than 5,000 sq. ft. up to and including 15,000 sq. ft. of heel yard or display area.

Level III Inspection Fee \$440.00

Level III License Fee \$10.00

Includes:
More than 15,000 sq. ft.
Dealers having more than one sales outlet or display area must obtain dealer's or agent's license for each separate location.

Nursery Certificate Tags 15¢ Each

Nursery Landscape

Contractors:

Level I Inspection Fee \$140.00

Level I License Fee \$10.00

Includes:
If Landscape Contractor maintains

a heel yard, this covers first 5,000 sq. ft. of that heel yard or display area. Also covers planting site inspection of plants where landscape contractor does not maintain a heel yard or display area.

Level II Inspection Fee \$290.00

Level II License Fee \$10.00

Includes:

Heel yard of more than 5,000 sq. ft. up to and including 15,000 sq. ft.

Level III Inspection Fee \$440.00

Level III License Fee \$10.00

Includes:

Heel yards over 15,000 sq. ft.

Out-of-State Nurseries:

Registration Fee

Not required unless the state in which the nursery is located requires a registration fee of Arkansas nurseries. In such cases, an equivalent fee will be charged.

License Fee \$10.00

(These fees apply only if the nursery has agents selling within the state. In such cases, planting site inspections will be made)

Inspection Fee – Inspection fee

structure will be the same as in state.

Horticultural:

Advice Certificate \$1.00

Strawberry Inspection –

State Inspected:

Application Fee \$25.00 Not required when grower is also a nurseryman and has paid nursery fees.

Inspection Fee \$1.50 Per each 1/4 acre

Strawberry Inspection –

Certified:

Application Fee \$50.00

Inspection Fee \$2.00 Per each 1/4 acre

Certification Tags 15¢ Each

Sweet Potato Certification –

Seed:

Inspection Fee \$25.00 For 1st acre, plus \$6.00 for each additional acre

Certification Labels 15¢ Each

Sweet Potato Certification –

Plants:

Inspection Fee \$10.00 Plus 2 cents per sq. ft.

Certification Labels 15¢ Each

Permits for plants brought into state under special permission 50¢

or an anticipated sales (subject to audit) for new producers. Each. Plants are inspected at destination. No registration fee required.

Phytosanitary Certificates

(State Certificate):

Issuing Fee \$15.00
Sampling Fee (State or Federal) \$7.50

Each certificate
Each certificate when State Plant Board must take sample

(b) **Reinspection fee.** When an extra trip is made necessary because of late application, because of findings of a previous inspection, or for other reasons, an additional charge may be made as follows:

(1) Thirty dollars (\$30.00) for first one-half (1/2) day or fraction thereof for each inspector; and

(2) Plus ten dollars (\$10.00) per hour for each inspector's time in excess of the one-half (1/2) day.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 5. Stop-sale Notices

2 CAR § 50-501. Stop-sale notices.

(a) State Plant Board inspectors will check for compliance with the rules contained in this part, as well as the laws under which they are promulgated.

(b) Stop-sale notices shall be issued for the following reasons:

(1) Selling, offering for sale, or transporting within or into Arkansas plants and nursery stock as herein regulated without being officially covered by a license and/or certificate or permit;

(2) Failure to label in accordance with the law and rules as herein outlined;

(3) Selling, offering for sale, or transporting within or into Arkansas for sale, plants and nursery stock as herein regulated that are:

(A) Diseased;

(B) Insect-infested;

(C) Containing noxious weeds;

(D) Dead; or

(E) In weak condition;

(4) Mislabeled or misrepresented as to:

(A) Variety;

(B) Count;

(C) Size;

(D) Quality;

(E) Grade; or

(F) Condition; and

(5) Shipped or moved from an area either within or outside Arkansas that is covered by a quarantine of the federal or state government, without having been officially cleared and so documented.

(c) When a stop-sale notice is issued, a copy shall be given to the person in possession of the stock in question.

(d) As specified in the law, it shall be unlawful to sell, transport, or dispose of in anyway, plants and nursery stock covered by a stop-sale notice, without first having been authorized in writing by the board.

(e) The board reserves the right to publish a notice of quarantine of stock in the local newspaper against any person when it is deemed necessary for failure to comply with the proper disposal of condemned stock.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 6. Movement of Sweet Potato into the State from Areas Infested or Suspected of Being Infested with Sweet Potato Weevil

2 CAR § 50-601. Rules governing movement.

(a) Sweet potatoes, or plants or vines thereof, which have been grown or stored in counties or parishes now or hereafter known to be infested with the sweet potato weevil, must not be transported into or stored, used, or distributed within the State of Arkansas, except as follows:

(1) Sweet potatoes must be moved only to consignee who holds a valid permit (issued on request) from the State Plant Board, authorizing said consignee to receive shipments of fumigated potatoes between July 1 and January 31 of each year;

(2)(A) Sweet potatoes must be fumigated with methyl bromide immediately prior to shipment in a manner approved by the Director of the State Plant Board.

(B) Only sweet potatoes which have been inspected and found apparently free of weevils will be eligible for fumigation.

(C) Fumigation certificates signed by an authorized plant quarantine official, showing number of bushels, car number, dosage, time of exposure, temperature, name and address of consignor and consignee, and any other information required by the director, must be mailed to the board at Little Rock when the shipment is made.

(D) Duplicate copy of certificate must be attached to waybill or be in possession of the driver of vehicle.

(E) Each container in the shipment must bear an official fumigation tag.

(F) Sweet potatoes must be moved into Arkansas immediately after fumigation;

(3)(A) Permit-holder (consignee) must notify the board in Little Rock immediately on arrival of each shipment.

(B) With said notification, permit-holder must remit to the board a one-cent fee for each bushel of sweet potatoes in said shipment; and

(4) Sweet potato plants or vines must not be transported into Arkansas under any condition.

(b)(1) The board will inspect on arrival as many of the fumigated shipments as possible.

(2) Should living stages of sweet potato weevil be found in any shipment, or should it be found that any of the provisions of this part are not being complied with, the director may invalidate any or all permits issued under this part.

(3) The director may cause to be destroyed, refumigated, or removed from the state any shipment in which live stages of the weevil are found.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-602. Exception for canning plants.

(a) Sweet potatoes fumigated as described 2 CAR § 50-601(a)(2) and (a)(3) may be brought to canning plants for immediate canning at any time, provided culls and refuse are sterilized at the plant.

(b) Unfumigated sweet potatoes may be brought to canneries at any time provided the canner and broker or hauler has a signed compliance agreement on file with the State Plant Board binding him or her to the following:

(1)(A) Special permission shall be obtained from the Director of the State Plant Board before bringing weevil-area potatoes into the state.

(B) Permission shall be restricted to the following area and purpose:

(i) **Area.**

(a) That section of Northwest Arkansas included in the following counties:

(1) Baxter;

(2) Benton;

(3) Boone;

- (4) Carroll;
- (5) Cleburne;
- (6) Conway;
- (7) Crawford;
- (8) Faulkner;
- (9) Franklin;
- (10) Fulton;
- (11) Independence;
- (12) IZARD;
- (13) Jackson;
- (14) Johnson;
- (15) Lawrence;
- (16) Madison;
- (17) Marion;
- (18) Newton;
- (19) Pope;
- (20) Pulaski;
- (21) Randolph;
- (22) Searcy;
- (23) Sebastian;
- (24) Sharp;
- (25) Stone;
- (26) Van Buren;
- (27) Washington; and
- (28) White.

(b) Prohibited elsewhere in the state; and

(ii) **Purpose.**

(a) Immediate canning only.

(b) Seed, bedding, table use, etc., prohibited, entire state;

(2) Each load shall be accompanied by an official certificate of the state of origin showing apparent freedom from weevils;

(3) Each load shall be officially sealed by the originating inspector and remain sealed until opened for canning;

(4) Certificates and seals from each load shall be kept by the cannery and surrendered to inspector upon request;

(5) If shipped by rail at any time or by truck between January 1 and July 1, certificates must show treatment of load with a pesticide recommended and registered for such use;

(6)(A) Shipment must be in tight rail cars or van-type trucks with vents screened.

(B) Tarpaulin-covered loads will not be accepted;

(7)(A) Potatoes must be canned immediately upon arrival.

(B) In emergency cases, potatoes may be unloaded and stored for not more than forty-eight (48) hours in such a way that weevils, if present, cannot escape and cause infestation;

(8) No potatoes may be carried away from the canning plant, and all must be canned except culls;

(9) Culls, wastes, and cleanings must be:

(A) Processed through a lye vat at regular plant speed and temperature and flushed down drain; or

(B) Collected in a tank covered with hot lye solution (minimum one hundred eighty five degrees Fahrenheit °581) F), allowed to soak for one (1) hour, then either buried two feet (2') deep, flushed down drain, or fed to livestock immediately;

(10) After canning, plant premises must be thoroughly cleaned and sprayed with an insecticide to kill any live weevils thereon;

(11) Trucks and rail cars, after unloading and before leaving premises must also be cleaned and sprayed as in subdivision (b)(10) of this section, and cleanings disposed of as in subdivision (b)(9) of this section;

(12) Board inspectors will make periodical, unannounced inspections to check for conformity with all items stipulated herein, but will not necessarily remain through entire canning process each visit;

(13) Inspectors will recommend cancellation of this agreement and withdrawal of the director's special permission if serious discrepancies with the stipulations are noted; and

(14)(A) An inspection fee of five cents (5¢) per bushel will be charged, based upon duplicate load certificates, which are received by the board office from the out-of-state inspector.

(B) These certificates and seal numbers must match those kept by the canner from each load and surrendered to a board inspector.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-603. Movement from areas free or declared to be free of potato weevil.

Sweet potatoes grown in counties or parishes which are free or which have been declared free of potato weevil will be admitted into Arkansas without fumigation, provided each load is accompanied by a certificate of the quarantine officer of the state where grown:

(1) Giving:

(A) Name and address of grower;

(B) Number of bushels in the load;

(C) Destination of load; and

(D) Name of county or parish where grown; and

(2) Certifying that said county or parish is free of sweet potato weevil and the date issued.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 7. Miscellaneous Rules

2 CAR § 50-701. Sale or transportation of seed Irish potatoes.

Sale or transportation of seed Irish potatoes is prohibited within the state (Irish potatoes which are represented orally or in writing as being suitable for planting purposes) unless the potatoes have been inspected in the field and certified as true to variety and free from disease by the official certification agency of the state in which they were grown, and the official certification tag of said state must be sealed to each bag or container thereof.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-702. Seed Irish potatoes — Use of misleading words prohibited.

Seed Irish potatoes must not be accompanied by tags, labels, or other devices on which are used the words "Inspected or Certified" or on which are used any other word or words which might suggest a similar meaning, unless said potatoes have in fact been certified as to freedom from disease and as to varietal purity by the official certification agency of the state in which they were grown.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-703. Texas (*Phymatotrichum*) root rot.

Nursery stock, strawberry plants, and vegetable plants grown or originating in the counties of Miller and Little River, and in any other counties in which the *Phymatotrichum* root disease is hereafter found to exist, which are affected with said disease, shall be prohibited from moving into any other portion of the state or into other states.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-704. Fees and refusal of service.

The Director of the State Plant Board may refuse further services of the board to anyone who owes the board for fees, until the fees are paid or until satisfactory arrangements are made for paying them.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-705. Phytosanitary certificates.

For sampling, inspecting or analyzing, and issuing phytosanitary certificates for soybeans, rice, small grains, cottonseed, cottonseed meal, soybean meal, lumber, and other plant products or plants, the charge will be fifteen dollars (\$15.00) per certificate.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-706. Plant-destroying snails.

(a) The brown garden snail, *Helix aspersa*, has been reported in:

- (1) Arizona;
- (2) California;
- (3) Florida;
- (4) Louisiana; and
- (5) South Carolina.

(b)(1) It is a plant feeder and very destructive to many host plants.

(2) It is readily transported on infested nursery stock.

(c) The shipment, therefore, of nursery stock into Arkansas from infested states, or from any state hereafter found infested with this or any other snail known to be a serious plant pest, shall be subject to the following:

(1)(A) Nurseries in infested states who desire to ship plants into Arkansas shall file certificates of inspection with the State Plant Board.

(B) As part of such certificate, or attached to it, there shall be a declaration signed by the state's regulatory officer stating that the nursery concerned has been inspected and found free of the brown garden snail, *Helix aspersa*.

(C) Amended certificates of inspection will also be accepted for nurseries which ship only:

- (i) Bare root nursery stock free of soil;
- (ii) Cured bulbs free of soil; and
- (iii) Nursery stock from tightly enclosed greenhouses or other structures where official inspections are made to assure the enclosures are free of snails.

(D) A valid copy of the state of origin certificate of inspection shall be attached to each package, box, or bundle of nursery stock shipped into Arkansas, or to the invoice accompanying each bulk delivery of balled and burlapped or container-grown stock;

(2) Infested nurseries may ship plants into Arkansas under either of the following conditions:

(A)(i) Fumigation.

(ii) Certificates and invoices shall accompany each load showing that the stock has been fumigated:

(a) In a gastight chamber with methyl bromide, two and one half pounds (2 1/2 lbs.) per one thousand cubic feet (1,000 cu. ft.), seventy degrees Fahrenheit °07) F) or above, for two (2) hours; or

(b) With HCN, twenty-five cubic centimeters (25 cc) per one hundred cubic feet (100 cu. ft.), fifty to eighty-five degrees Fahrenheit °05) F – 85° F), for one (1) hour; or

(B)(i) Quarantine area certification.

(ii) Nursery stock will be accepted if accompanied by certificates and invoices showing that the plants have, under official supervision, been:

(a) Held in a separate, designated quarantine area for at least thirty (30) days;

- (b) Treated intermittently with baits and sprays;
- (c) Inspected and reinspected for brown garden snail; and
- (d) Completely free of harmful snails for at least thirty (30) days;

(3) Nursery stock or plant material arriving in Arkansas from an infested state without proper certification will be held under stop-sale order until properly certified, or returned to the shipper at his or her expense, unless found infested with living brown garden snails or other snails known to be serious plant pests; and

(4) Nursery stock or plant material found infested with brown garden snail or any other dangerous plant pest will be destroyed, or fumigated at the shipper's expense, provided the infestation can be eliminated without hazard of spread of the pest during treatment.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Codification Notes. "HCN" means hydrogen cyanide.

2 CAR § 50-707. Fusarium wilt of tomatoes.

(a)(1) A new race of the tomato *fusarium* wilt organism (*Fusarium oxysporum* f. sp *lycopersici* race 2) has been found in the pink tomato section of southeast Arkansas.

(2) This organism is a serious threat to commercial tomato production anywhere in the state.

(3) To prevent the spread of race 2, or other new races which may hereafter develop, the following rules shall apply to all producers of vegetable plants in Bradley and Drew counties, and in every county where race 2 or other new races may subsequently be found.

(b) The movement of tomato plants within or from the above described regulated area is prohibited, except when such plants are produced under inspection of the State Plant Board and in compliance with the following special rules:

(1) Soil used in beds, pots, cups, flats, pot-beds, and cold frames for plant production, or to rest containers upon, shall be obtained from areas where tomatoes have not been grown in the past;

(2) Soil and/or soil-media mixtures shall be decontaminated by one (1) of the following methods before use in plant production:

(A)(i) Methyl bromide fumigation (four pounds (4 lbs.) per one hundred cubic feet (100 cu. ft.) of soil for a minimum of twenty-four (24) hours at forty degrees Fahrenheit (°04) F) or above.

(ii) Bulk soil shall be confined on a concrete slab or sheet of polyethylene plastic over the ground surface during fumigation.

(iii) Bulk soil shall be no more than twelve inches (12") deep to ensure gas penetration.

(iv) Holes shall be punched in the soil at twelve-inch centers to facilitate gas penetration.

(v) Soil in pot-beds, cold frames, and holding areas shall be loosened as deep as practicable to ensure gas penetration.

(vi) Fumigation covers shall be air tight (no holes).

(vii) Special care shall be taken when removing the cover to prevent recontamination with untreated soil.

(B) Heat sterilization shall be acceptable if performed according to University of Arkansas Division of Agriculture Cooperative Extension Service recommendations (Misc. Publication 64, "Control of Disease and Insect Pests in the Plant Bed"); and

(C) Artificial media (new or unused peat, perlite, vermiculite, etc.) may be used without decontamination if reasonable precautions are taken against contamination with untreated soil (i.e., mixing on sterilized surfaces, etc.);

(3) All flats, boxes, pots, cups, tools, etc., which have been used in plant production or which have come in contact with untreated soil must be decontaminated, preferably by methyl bromide fumigation;

(4)(A) Plant house interior surfaces must be decontaminated (all surfaces of benches, timber supports, heating and ventilating equipment, walls, ceilings, floors, etc.).

(B) This shall also apply to surfaces of:

- (i) Cold frames;
- (ii) Pot-beds; and
- (iii) Holding areas.

(C)(i) An effective decontaminant spray or drench may be prepared with fifty percent (50%) commercial Clorox or with one gallon (1 gal.) commercial formaldehyde to eighteen gallons (18 gals.) water.

(ii) After using either material, ventilate until fumes can no longer be detected before growing plants (a few hours to several days for Clorox, longer for formaldehyde, depending upon conditions);

(5)(A) Direct traffic from tomato fields to plant production areas must not be permitted.

(B) Wash hands with soap and decontaminate shoes with fifty percent (50%) Clorox before entering the:

- (i) Plant house;
- (ii) Cold frames; or
- (iii) Holding areas;

(6)(A) Locally grown seed shall not be planted.

(B) A tag or invoice showing purchase of seed from an established seed firm must accompany application for inspection.

(C)(i) In cases of dire necessity, locally grown seed may be used if hot water treated (one hundred twenty-two degrees Fahrenheit °221) F.) for twenty-five (25) minutes).

(ii) Advance permission must be obtained from Director of Plant Industry Division; and

(7) This section shall apply in addition to, and does not replace any other, rules now given in Rules on Plant Diseases and Pests, 2 CAR pt. 50.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-708. Blueberry nursery stock.

(a)(1) The production of blueberries is a new and growing industry in Arkansas.

(2) Diseases such as red ringspot, necrotic ringspot, stunt, and phytophthora root rot pose a serious threat to the blueberry industry, especially in its developing stages.

(3) To prevent the spread of these and other diseases by blueberry nursery stock the following rules shall apply to all blueberry plants produced in Arkansas for sale.

(b) Mother blocks.

(1) All blueberry plants produced in Arkansas shall be grown from cuttings taken from mother blocks which have been established as prescribed by this part and kept under rigid inspection and rouging by the State Plant Board.

(2)(A) Mother blocks shall be established by one (1) of the following methods:

(i) Transplanting or clearly designating and setting apart plants which have been inspected and found to be free of serious diseases, including the above;

(ii) Setting plants which have been indexed or otherwise officially determined to be free of harmful diseases;

(iii) Setting plants which have been produced in an approved official certification program in Arkansas or another state; or

(iv) Setting plants which have been produced from cuttings from an officially approved mother block established and maintained as set out in this part.

(B) New varieties.

(i)(a) When it appears advantageous to the Arkansas blueberry industry to bring in a promising new variety which does not qualify for entry under subdivisions (b)(2)(A)(i) – (iv) of this section, cuttings, rooted cuttings, or plants may be brought into Arkansas and grown in isolation under inspection, indexing, or other testing until officially determined to be free of harmful insects and diseases.

(b) When such official determination has been made, said plants shall be eligible for the establishment of mother blocks as in subdivisions (b)(2)(A)(i) and (ii) of this section.

(ii) Proof of origin in the form of affidavits or sales invoices or certification tags shall be required for cuttings, rooted cuttings, or plants which are to be used in establishing approved mother blocks if from a source other than the applicant nurseryman's own blocks.

(3) Mother blocks:

(A) Shall not be fruited for production purposes;

(B) Shall be clearly designated and set apart from fruiting fields and, when possible, located where they will not receive drainage from fruiting fields; and

(C)(i) Shall be inspected by the board as often as necessary and at optimum times for the detection of such diseases as:

(a) Red ringspot;

(b) Necrotic ringspot;

(c) Other virus diseases;

(d) Stunt;

(e) Phytophthora root rot;

(f) Fungus cankers;

(g) Crown gall; and

(h) Harmful insects and mites.

(ii) All obviously diseased or seriously infested plants found in a mother block shall be removed and destroyed within ten (10) days of inspection.

(iii)(a) Plants suspected of being diseased or infested shall be submitted to the appropriate department at the University of Arkansas for an official determination.

(b) Those plants officially determined to be diseased or seriously infested shall be removed and destroyed when such is determined to be necessary.

(c) Production of nursery stock.

(1) Cuttings taken from a mother block shall be:

(A)(i) Rooted in beds on raised benches or raised gravel to break contact with the soil.

(ii)(a) If the bedding medium contains soil or is being reused, the medium shall be fumigated with an approved fumigant according to label directions.

(b) Heat sterilization performed according to directions in Extension Circular 540, "Control of Diseases and Insect Pests in the Plant Bed," shall be acceptable.

(iii) Artificial media (new peat, perlite, vermiculite, washed sand, etc.) may be used without fumigating or heat treating if reasonable precautions are taken against contamination; and

(B) Rooted in beds located where they will not receive drainage from fruiting fields or mother plant blocks.

(2) **Rooted cuttings.** Rooted cuttings shall be transplanted to:

(A) Fields which have been fumigated with an approved fumigant according to label directions; or

(B)(i) Containers in which the growing medium, if it contains soil or is being reused, has been fumigated or heat treated as in subdivision (c)(1)(A) of this section.

(ii) Artificial media (new peat, perlite, vermiculite, washed sand, etc.) may be used without fumigating or heat treating if reasonable precautions are taken against contamination.

(iii) Used containers shall be decontaminated by washing with thirty percent (30%) Clorox solution before reusing.

(iv) Containers shall be placed on raised benches or on raised gravel beds in such manner as to avoid contact of the plants or containers with contaminated soil or water.

(v) Container blocks or field blocks shall be located where they will not receive drainage from fruiting fields or mother plant blocks.

(3) **Nursery stock.**

(A) Blueberry nursery stock when produced as prescribed herein may be sold as:

- (i) Cuttings;
- (ii) Rooted cuttings;
- (iii) Field-grown plants; and
- (iv) Container-grown plants.

(B) Proof of origin must be provided to the purchaser if the cuttings, rooted cuttings, or plants are to be used:

- (i) In the establishment of new mother blocks; or
- (ii) For the production of rooted cuttings or container-grown or field-grown plants for sale.

(d) **Application of rules.** These rules shall apply in addition to, and do not replace, any rules covering nursery stock now in effect as covered by 2 CAR pt. 50, nor do they replace or supersede any requirement of the Arkansas Plant Act of 1917, Arkansas Code § 2-16-201 et seq., or the Arkansas Nursery Fraud Act of 1919, Arkansas Code § 2-21-101 et seq.

(e) **Fees.** The nursery license and inspection fees described in Subpart 4 of this part shall apply.

(f) **Effective date.**

(1) To avoid penalizing plant production by current methods while mother blocks are being established, these rules shall become effective in two (2) stages.

(2) Present plant production practices may be continued until December 31, 1984, after which date all cuttings shall be taken and started as prescribed in this part.

(3) After December 31, 1986, all cuttings, rooted cuttings, and plants produced in Arkansas for sale shall be produced as set forth in this part.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-709. Lythrum species (including, but not limited to, purple loosestrife).

(a) All *Lythrum* species including any hybrid cross thereof is hereby declared to be a public nuisance and designated a noxious weed.

(b) It is prohibited to transport, buy, sell, offer for sale, or to distribute *Lythrum* species interstate or intrastate.

(c) The planting of plants and/or plant parts including seed is strictly prohibited in the State of Arkansas.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 8. Rules and Standards For Certification of Certified Blackberry Plants

2 CAR § 50-801. Blackberry nursery stock certification rules.

(a) The production of blackberry nursery stock is an important industry in Arkansas.

(b) Diseases such as rust, anthracnose, crown gall, and viruses, as well as pests such as cane borers and nematodes pose a threat to the blackberry nursery industry.

(c) To prevent the spread of these problems by nursery stock, the following certification rules shall apply to the production and sale of certified blackberry nursery stock in Arkansas.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-802. Definitions.

As used in this subpart:

(1) "Board" means the State Plant Board;

(2) "Blackberry" means cultivated *Rubus* species and related plants that are considered blackberry botanically;

(3) "Cane cutting" means a cane section of two (2) or more nodes or buds (length four to six inches (4 – 6 in.) to be transplanted to produce a plant;

(4) "Crown" means the persistent (perennial) base of the plant, the junction between canes and roots (some varieties have buds that arise primarily from the crown);

(5) "Director" means the director of the State Plant Board or his or her duly appointed representative;

(6) "Hardwood cutting" means taken from a mature woody stem for the purpose of propagation;

(7) "Indicator plant" means any herbaceous or woody plant used to index or determine virus infection;

(8) "Indexing" means a procedure to determine virus or other pathogen infection by inoculation from the plant to be tested to an indicator plant (grafted onto plant to be tested) or by any other approved method;

(9) "Mericlones" means plants clonally propagated from a single meristem tip;

(10)(A) "Micropropagation" means plant multiplication in vitro.

(B) Blackberry is propagated in tissue culture by aseptic transfer of meristem tip cultures to produce nuclear stocks;

(11) "Nodal cutting" means a cane cutting with a single node to produce a plant;

(12) "One-year-old plants" means well rooted plants that have developed during one growing season;

(13) "Primocane (succulent plants)" means the current season's growth that develops from root or basal crown buds;

(14) "Root cuttings" means a root section with one (1) or more buds;

(15) "Softwood cutting" means a cutting taken from a green, immature, actively growing stem of a woody plant during spring or early summer for the purpose of propagation;

(16) "Succulent plant" means a small, actively growing plant that is developing from root buds, not having passed through a dormant period;

(17)(A) "Virus infected (affected)" means presence of a virus or viruses or yellows disease agent in a plant or plant part.

(B) The word "virus" shall be used hereafter to include yellows disease;
and

(18) "Virus-like" means a disorder of genetic or nontransmissible origin, or a graft-transmissible disorder resembling a virus disease, including but not limited to diseases caused by viroids and phytoplasmas.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-803. Certifying agency issuance of certificate.

(a)(1) The issuance of a certified State of Arkansas plant tag or stamp under this subpart affirms solely that the tagged or stamped blackberry stock has been subjected to certification standards and procedures by the Department of Agriculture.

(2) The State Plant Board disclaims all expressed or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants and plant materials under this subpart.

(b)(1) The board is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this subpart.

(2) No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty or to accept financial responsibility on behalf of the board regarding this subpart.

(c) Participation in the blackberry planting stock certification program is voluntary.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-804. Blackberry certification standards.

The following specific rules constitute the requirements and standards for classes and sources of blackberry certified stock:

(1)(A) Nuclear stock shall be derived from plants that have been:

(i) Micropropagated;

(ii) Indexed;

- (iii) Apparently free from other pests; and
- (iv) Evaluated in field tests for trueness-to-variety.

(B) Nuclear stock may exist as *in vitro* tissue culture plantlets or potted plants in a screened greenhouse.

(C) Sources of plants grown as nuclear stock must be approved by the State Plant Board;

(2) Foundation stock is produced from nuclear stock and grown in a greenhouse or screenhouse to exclude insects;

(3) Registered stock is produced from foundation stock in:

- (A) Greenhouse;
- (B) Screenhouse; or
- (C) Field; and

(4) Certified stock is produced from registered stock in:

- (A) Greenhouse;
- (B) Screenhouse; or
- (C) Field.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-805. Requirements for the production of foundation, registered, and certified blackberry stock.

(a) Facilities (greenhouse, screenhouse, water, equipment, etc.) for plant production must be approved by the State Plant Board before foundation stock is procured by the producer.

(b) Foundation stock.

(1) Foundation plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three (3) years by the United States Department of Agriculture or other personnel approved by the board.

(2) Growers may use micropropagation techniques to multiply foundation plants prior to planting in a foundation greenhouse provided:

(A) The micropropagated plants are isolated from other nonindexed blackberry plants; and

(B) The micropropagation facilities are approved by the board.

(3) In greenhouse or screenhouse, foundation plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).

(4)(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(B) Weeds that host diseases of major concern must be controlled within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(C) Insects that vector diseases of major concern should be controlled in isolation areas.

(5) Noncertified *Rubus* species must not exist within the greenhouse or screenhouse.

(6) Blossoms shall be removed before the blossoms open.

(c) Registered stock.

(1) Registered plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three (3) years.

(2) In greenhouse or screenhouse, registered plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).

(3)(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(B) Weeds that host diseases of major concern must be controlled within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(C) Insects that vector diseases of major concern should be controlled in an isolation area.

(4) Noncertified *Rubus* species must not exist within the greenhouse or screenhouse.

(5)(A) For field production, soil treatment is required with an approved method (ex. solid soil fumigation with methyl bromide and chloropicrin).

(B) Weeds that host diseases of major concern will be controlled.

(C) Insects that vector diseases of major concern should be controlled in an isolation area.

(6)(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the field used to produce certified blackberry stock.

(B) Each lot and/or different cultivars are labeled and separated by a:

(i) Distance of four and one-fourth meters (4 1/4 m) or fourteen feet (14'); or

(ii) A physical barrier that prevents intermingling of roots.

(7) Field-produced registered stock shall not be harvested beyond one (1) year.

(8) Blossoms shall be removed before the blossoms open.

(d) Certified stock.

(1) Certified plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three (3) years.

(2) In greenhouse or screenhouse, certified plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).

(3)(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(B) Weeds that host diseases of major concern must be controlled within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(C) Insects that vector diseases of major concern should be controlled in an isolation area.

(4) Noncertified *Rubus* species must not exist within the greenhouse or screenhouse.

(5)(A) For field production, soil treatment is required with an approved method (ex. solid soil fumigation with methyl bromide+ chloropicrin).

(B) Weeds that host diseases of major concern will be controlled.

(C) Insects that vector diseases of major concern should be controlled in an isolation area.

(6)(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the field used to produce certified blackberry stock.

(B) Each lot and/or different cultivars are labeled and separated by a:

(i) Distance of four and one-fourth meters (4 1/4 m) or fourteen feet (14'); or

(ii) Physical barrier that prevents intermingling of roots.

(7) Field-produced certified stock shall not be harvested beyond one (1) year.

(8) Blossoms shall be removed before blossoms open.

(e) Documentation of soil treatments and use of plant protectants shall be made available to the board.

(f) A map identifying cultivars and lots must be provided to the board.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-806. Inspections — Greenhouse/screenhouse.

(a)(1) Grower will regularly inspect plants.

(2) All plants that are symptomatic of disease will be removed and destroyed.

(3) The grower will keep a logbook recording cultivar and number of destroyed plants and make it available to State Plant Board inspectors.

(b) Grower will inspect in and around the greenhouse perimeters to ensure isolation standards are being met.

(c) Board inspectors must inspect and approve any greenhouse that has not been used for successful production of indexed blackberry plants.

(d)(1) During the production of certified plants, board inspectors will do at least one (1) inspection during the growing period when plants are likely to express symptoms of:

- (A) Virus infection;
- (B) Crown and cane gall infections; and
- (C) Other disorders.

(2) The board may conduct additional inspections if deemed necessary.

(e)(1) All plants that are of off-types, crown gall infected, virus infected, or exhibiting virus-like symptoms during inspections will be flagged by board inspectors.

(2) Grower will remove all flagged plants immediately after inspection by the board inspector.

(3) Effective roguing techniques must include removing the undesirable plant and all of its roots.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-807. Inspections — Field.

(a)(1) The grower should inspect fields regularly during the growing season and rogue all plants with symptoms of disease, etc.

(2) The State Plant Board should be informed if any problems are found.

(b)(1) The board inspector will perform three (3) inspections of fields for certified plant production:

- (A) First inspection during April;
- (B) Second inspection during July; and
- (C) Third inspection during October.

(2) Additional inspections may be performed if deemed necessary.

(c)(1) All plants that are of off-types, crown gall infected, virus infected, or exhibiting virus-like symptoms during inspections will be flagged by board inspectors.

(2) Grower will remove all flagged plants immediately after inspection by the board inspector.

(d) Effective roguing techniques must include removing the undesirable plant and all of its roots as well as all the plants and plant parts within ten feet (10') of the undesirable plant.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-808. Inspection standards.

(a) Greenhouse, general requirements.

(1) Unit of certification shall be the entire greenhouse.

(2) Isolation.

(A) Noncertified *Rubus* species must not exist within the greenhouse.

(B) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(C) Weeds that host disease of major concern must be controlled within one hundred fifty-two meters (152 m) or five hundred feet (500') of the perimeter of the greenhouse.

(D) Insects that vector diseases of major concern should be controlled in an isolation area.

(b) Field, general requirements.

(1)(A) Unit of certification shall be the field or a portion of field.

(B) Any portion of the field that does not meet inspection standards may be delimited if it will not jeopardize the remainder of the field.

(2) Isolation.

(A) Noncertified *Rubus* species must not exist within one hundred fifty-two meters (152 m) or five hundred feet (500') of the certified plants.

(B) Weeds that host diseases of major concern must be controlled within one hundred fifty-two meters (152 m) or five hundred feet (500') of the certified plants.

(C) Insects that vector diseases of major concern should be controlled in an isolation area.

(c) Specific greenhouse and field tolerance, maximum percentage of factor.

Factor	Foundation Stock	Registered Stock	Certified Stock
Anthracnose	0	2.0	5.0
Crown and cane e:all	0	0.1	1.0
Nematodes	0	0.05	0.1
Rust, svstemic	0	0	0
Virus diseases	0	0.05	0.5
Other diseases	0	0.2	0.5
Varietal mixture	0	0	0
Root, cane or crown inhabiting insects	0	0.05	0.1

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-809. General requirements for plants.

(a) Growers may sell foundation, registered, or certified stock as certified plants.

(b)(1) An official certificate will accompany each sale of certified blackberry plants or stock.

(2) This certificate will list the viruses indexed and other details.

(3) Each container/plant will be labeled with variety and certification information.

(c)(1) A complete record of the number of certified blackberry plant/stock sales will be maintained and made available to the official certifying agency.

(2) The record will include:

(A) Class;

(B) Cultivar;

(C) Date of shipment; and

(D) Number of plants or stock shipped.

(d) General inspection standards for plants:

- (1) Apparently free of biotic and abiotic diseases, insects, and other pests;
- (2) True-to-variety characteristics;
- (3) Good leaf color and plant size;
- (4) Satisfactory plant size to meet the expectations of the customer; and
- (5) Plants will not be shipped with noncertified plants.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-810. Blackberry certification fees.

(a) Blackberry certification application fee.

(1) Applicant will be required to obtain a valid nurseryman's license and pay the required fees as prescribed for the nurseryman category.

(2)(A) The blackberry certification application and fee is in addition to the nurseryman fee.

(B) The certification fee is assessed for the sole purpose of defraying expenses incurred in the additional inspection and certification requirements protocol.

(3) The applicant must:

(A) Furnish all information requested on the Application for Inspection form; and

(B) Allow the inspector to take samples of plants or plant parts from any certified planting for inspection and testing purposes.

(4)(A) A separate application is required and a fifty-dollar fee shall be paid for each cultivar/variety unit entered for certification.

(B) Each lot or field of each cultivator shall be listed separately on the application.

(5) Application for certification inspection for the following year must be filed with the State Plant Board, Post Office Box 1069, Little Rock, Arkansas 72203 by October 31, accompanied by the appropriate fees.

(b) A grower desiring to produce certified blackberry plants as herein provided shall establish with the board facts evidencing sufficient experience to produce healthy, high-quality stock.

(c)(1) The board will remove any applicant failing to renew certification by the designated due date of the certification program.

(2) Failure to pay fees by the designated due date shall also result in removing the applicant from the certification program.

(d) The board will not accept applications from growers owing the board for previous services.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-811. Certified planting stock premarketing, identification, and grade.

(a) All blackberry planting stock meeting the requirements of this part can be identified by the State Plant Board tag or stamp issued by the board.

(b) All containers must be new and marked with the:

(1) Name and address of the grower;

(2) Class of certified stock;

(3) Variety; and

(4) Lot number.

(c) The quality and grading of the stock is the responsibility of the grower.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-812. Blackberry tagging or stamping and plant inspection.

(a) "Certified" stock shall be identified with the State of Arkansas official certified blackberry plant tag or stamp under the supervision of the State Plant Board after plants have passed inspection.

(b) Only plants meeting Arkansas standards for blackberry plants shall be tagged or stamped.

(c) All containers shall be marked with the name and address of the grower, grade, or class of stock, and variety.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-813. Application of rules.

This certification program is strictly voluntary and this subpart shall apply in addition to and does not replace any rules covering nursery stock now in effect as covered by this part, nor do they replace or supersede any requirement of the Arkansas Plant Act of 1917, Arkansas Code §§ 2-16-201 – 214, or the Arkansas Nursery Fraud Act of 1919, Arkansas Code §§ 2-21-101 – 113.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Subpart 9. Quarantines

2 CAR § 50-901. Gypsy moth quarantine.

Revoked December 9, 1983, after two (2) successive years of negative annual surveys.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-902. Imported fire ant quarantine.

(a) Whereas, it has been determined, and so declared, that a serious insect pest, the imported fire ant (*Solenopsis saevissima richteri Forel*), is known to exist in Arkansas and is known to be a serious pest of:

- (1) Humans;
- (2) Crops;

(3) Livestock; and

(4) Wildlife.

(b)(1) Whereas, the fire ant may be disseminated by the transportation or movement of the following products or substances:

(A) Soil and unprocessed sand or gravel, separately or with other things;

(B) Forest, field, or nursery-grown woody or herbaceous plants with soil attached;

(C) Plants in pots or containers;

(D) Grass sod;

(E) Manufactured forest products such as stump wood or timbers if soil is attached; and

(F) Any product or substance which may hereafter be found capable of spreading the imported fire ant.

(2) Movement of said products or substances from areas which are now or may hereafter be designated by the United States Department of Agriculture as imported fire ant regulated areas is prohibited except under rules which have been or may hereafter be made by the United States Department of Agriculture.

(c)(1) Areas which are found infested or which are so situated as to be subject to infestation with the imported fire ant must be treated to eradicate it.

(2) In lieu of requiring the property to be treated by the owner, or at the owner's expense, the State Plant Board may elect to apply the treatment, in cooperation with the United States Department of Agriculture, at no cost to the owners.

(3) Property owners will be notified when treatment is to begin through:

(A) Newspapers;

(B) Radio;

(C) Television; and

(D) Personal contact where feasible.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-903. Peach mosaic quarantine.

Revoked November 10, 1972, after eight (8) successive years of negative annual surveys.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-904. Phony peach disease quarantine.

(a)(1) Standard State Quarantine Order No. 2, as revised June 13, 1951.

(2) Effective on and after July 2, 1951.

(3) **Disease.** Phony peach, a virus disease of peach and certain other stone fruits.

(b) States and counties currently affected by phony peach:

(1) Alabama, entire state;

(2) Florida, entire state;

(3) Georgia, entire state;

(4) Louisiana, entire state;

(5) Mississippi, entire state;

(6)(A) Arkansas.

(B) Counties of:

(i) Arkansas;

(ii) Ashley;

(iii) Bradley;

(iv) Chicot;

(v) Columbia;

(vi) Crittenden;

(vii) Cross;

(viii) Desha;

(ix) Drew;

(x) Hempstead;

(xi) Howard;

- (xii) Jefferson;
- (xiii) Lafayette;
- (xiv) Lee;
- (xv) Lincoln;
- (xvi) Little River;
- (xvii) Miller;
- (xviii) Monroe;
- (xix) Nevada;
- (xx) Phillips;
- (xxi) Pike;
- (xxii) Poinsett;
- (xxiii) St. Francis;
- (xiv) Sevier;
- (xv) Union; and
- (xvi) Woodruff;

(7) Missouri, county of Dunklin;

(8)(A) North Carolina.

(B) Counties of:

- (i) Anson;
- (ii) Cumberland;
- (iii) Gaston;
- (iv) Hoke;
- (v) Polk; and
- (vi) Rutherford;

(9)(A) South Carolina.

(B) Counties of:

- (i) Aiken;
- (ii) Allendale;
- (iii) Bamberg;
- (iv) Barnwell;

- (v) Cherokee;
- (vi) Chesterfield;
- (vii) Edgefield;
- (viii) Greenville;
- (ix) Lancaster;
- (x) Laurens;
- (xi) Lexington;
- (xii) Marlboro;
- (xiii) Orangeburg;
- (xiv) Richland;
- (xv) Saluda;
- (xvi) Spartanburg;
- (xvii) Sumter; and
- (xviii) York;

(10)(A) Tennessee.

(B) Counties of:

- (i) Chester;
- (ii) Crockett;
- (iii) Dyer;
- (iv) Fayette;
- (v) Hardeman;
- (vi) Hardin;
- (vii) Lake;
- (viii) Lauderdale;
- (ix) McNairy;
- (x) Madison; and
- (xi) Weakley; and

(11)(A) Texas.

(B) Counties of:

- (i) Anderson;

- (ii) Bexar;
- (iii) Brazos;
- (iv) Camp;
- (v) Cherokee;
- (vi) Freestone;
- (vii) Limestone;
- (viii) McLennan;
- (ix) Milam;
- (x) Rusk;
- (xi) San Augustine;
- (xii) Smith; and
- (xiii) Upshur.

(c) **Regulated products.** All peach, plum, apricot, nectarine, and almond nursery stock.

(d) **Conditions governing shipment.** Transportation by any means whatsoever of the regulated products from any regulated area either into, or within, or from the State of Arkansas, is permitted only when there is securely attached to the outside of each shipment a valid nursery inspection certificate issued by an authorized official of the state of origin and bearing the name and address of the consignor of the regulated articles contained therein.

(e) **Requirements for certification.** Certifications or permits shall be issued only on the following conditions:

(1) That each nursery in the phony peach infested areas producing the regulated products shall apply to the state quarantine official for approval of the proposed nursery-growing site on or before August 15 of each year;

(2) Selected nursery sites shall be at least:

- (A) Three hundred yards (300 yds.) from wild or domesticated plum;
- (B) One-half (1/2) mile from phony-infested commercial orchards; and
- (C) One-half (1/2) mile from an urban area;

(3) The one-half (1/2) environs of the nursery site shall be inspected prior to October 1, and all phony trees found within such environs removed prior to November 1; and

(4) All budding shall be restricted to the slip-bud method.

(f) **Removal of areas from rules.** When satisfactory evidence has been presented that no phony peach disease has been found for a period of three (3) years in any county or state affected by this quarantine, said county or state shall be removed from this section.

(g) **Shipment of regulated products for scientific purposes.** Rules of this quarantine do not apply to shipments of regulated products to the United States Department of Agriculture or to other recognized institutions for scientific purposes except that a special permit must be secured for the entry into or movement within the State of Arkansas of such products.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-905. Pink bollworm quarantine.

For information concerning Pink Bollworm quarantine, see 2 CAR pt. 55.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-906. Southern pine beetle quarantine.

Revoked December 2, 1982.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-907. Soybean cyst nematode quarantine.

Revoked December 4, 1981.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-908. Sweet potato weevil quarantine.

(a) Adopted March 11, 1983, after proclamation of a state emergency by Governor Bill Clinton.

(b) For information, request a copy of the quarantine.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-909. White-fringed beetle quarantine.

Revoked June 30, 1975, at the same time the federal quarantine was revoked.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-910. *Gibberella fujikuroi* (*bakanae* strains) quarantine.

(a) The State Plant Board has found and determined and does hereby declare the fungus *Gibberella fujikuroi* (*bakanae* strains), causal agent of the rice disease *bakanae*, commonly known as "foolish seedling disease", a:

- (1) Public nuisance;
- (2) Pest; and
- (3) Menace to the rice industry.

(b)(1) The purpose of this quarantine is to prohibit introduction of the disease and its causal agent into rice production areas of Arkansas.

(2) The movement of *Gibberella fujikuroi* (*bakanae* strains) regulated articles from infested areas into Arkansas is hereby restricted.

(c) Quarantine implementation.

(1) The board will implement the *Gibberella fujikuroi* (*bakanae* strains)/*Bakanae* or foolish seedling disease of rice-quarantine immediately upon adoption of this section.

(2) Regulatory action will be implemented at the discretion of the board.

(d) **Definitions.** As used in this section:

(1)(A) "Certificate A" means a document issued or authorized by the board, or regulatory official of the state of origin, indicating that a regulated article:

- (i) Is not contaminated with *Gibberella fujikuroi* (*bakanae* strains); or
- (ii) Has been treated in such a manner as to eliminate the organism.

(B) Such articles may be moved to any destination;

(2) "Compliance agreement" means a written agreement between the board and any person engaged in growing, dealing in, or moving regulated articles wherein the latter agrees to comply with conditions specified in the agreement to prevent the dissemination of *Gibberella fujikuroi* (*bakanae* strains);

(3) "Exemptions" means provisions contained in this part which allow for modifications in conditions of movement of regulated articles from regulated areas under specified conditions;

(4) "Farm operator" means a person responsible for the production and sale of a rice crop on any individual farm;

(5) "Infected" means a presence of the causal organism on or in seed or any plant part that may or may not sustain and support the living and reproduction of the organism;

(6) "Infested" means actually infested with the organism or so exposed to infestation that it would be reasonable to believe that an infestation exists;

(7) "Inoculum" means spores or any other part of the causal organism that might serve to cause the organism to survive and reproduce on any plant or plant part that it comes into contact with;

(8) "Inspector" means any authorized employee of the board, or any other person authorized by the board to enforce the provisions of this part;

(9) "Limited permit" means a document issued or authorized by the board or a designated regulatory official to provide for the movement of regulated articles to a restricted destination for limited handling, utilization, or processing or for treatment;

(10) "Mill operator" means a person responsible for the operation of a manufacturing plant, and all facilities of that plant, involved in the processing, packaging, or handling of rough rice and rice products;

(11) "Milled rice" means rice that has been subjected to processing to produce products from rough rice;

(12) "Milling rice" means rice that has been produced, handled, acquired, and destined for processing through a mill;

(13) "Person" means any:

(A) Individual;

(B) Corporation;

(C) Company;

(D) Society;

(E) Association; or

(F) Other business entity;

(14) "Regulated area" means any state or any portion of such state that is known to be infested with *Gibberella fujikuroi* (*bakanae* strains);

(15) "Research rice" means any rice seed or rice plant parts that are to be used in a recognized research project conducted by a state or federal program under the supervision of a trained and credentialed professional staff that has in place proper safety programs to prevent the accidental release and/or spread of the disease;

(16) "Rice mill" means any manufacturing plants and all associated facilities that are involved in processing rough rice to produce rice related products;

(17) "Rice" means all parts of rice and wild rice plants of the genera *Oryza*;

(18) "Rice hulls" means the outer covering of the rice seed that usually is removed in the milling process;

(19) "Rice production area" means any area utilized in the growing of rice plants for production of the plant and/or subsequent seed for harvesting;

(20) "Rice products" means any commodity or product that has been produced from any part of the rice plant and may contain parts of the original plant structure or they may be unrecognizable as having originated from the rice plant because of being subjected to additional processing;

(21) "Rice mill waste" means any trash or discarded material that was originally contained or in contact with rice plants, seed, or other plant parts utilized in a milling process;

(22) "Rough rice" means rice seed harvested, handled, and transported in the same form it was in immediately following harvest and removal from the rice plant;

(23) "Seed assay" means any test available to be applied to a sample, lot, or other quantity of seed to determine the presence of *Gibberella fujikuroi* (*bakanae* strains);

(24)(A) "Seed rice" means seed removed from the rice plant and subjected to such processing as to make the seed suitable for use as planting material for subsequent rice crops.

(B) This processing may include but is not limited to:

- (i) Cleaning;
- (ii) Treating; and
- (iii) Bagging.

(C) Depending on the handling and products applied to this seed it may or may not be suitable for human consumption;

(25) "Treatment" means any process that may be applied to rice seed or other plant parts in an attempt to modify/or affect the presence of *Gibberella fujikuroi* (*bakanae* strains); and

(26) "Used rice equipment" means any equipment previously used to harvest, strip, transport, destroy, or process rice.

(e) **Regulated articles.** The following are regulated under the provisions of this section:

(1) The causal agent, *Gibberella fujikuroi* (*bakanae* strains), in any living stage of development;

- (2) Rice;
- (3) Rough rice;
- (4) Seed rice;
- (5) Research rice;

- (6) Milling rice;
- (7) Rice hulls;
- (8) Rice mill waste;
- (9) Used rice equipment; and

(10) Any other products, articles, or means of conveyance not covered by subdivisions (e)(1) – (9) of this section, when determined by an inspector they present a hazard of spread of *Gibberella fujikuroi* (*bakanae* strains) and the person in possession thereof has been so notified.

(f) **Conditions governing the movement of regulated articles.** The following conditions govern the movement of regulated articles:

(1) A certificate or limited permit is required to transport regulated articles from a regulated area into or through any rice production area;

(2) A certificate or limited permit for movement of regulated articles may be obtained from the board or an authorized cooperator/collaborator agency;

(3) A certificate or limited permit may be issued by an inspector if a regulated article has:

(A) Originated in the noninfested area of this state or in a noninfested area of any other state and has not been exposed to infestation at any time;

(B) Been treated to eliminate infestation;

(C) Been subjected to a seed assay to determine if the causal agent is present and none is found; or

(D) Been grown, manufactured, stored or handled in such a manner that in the judgment of the inspector no infestation will be transmitted thereby;

(4) Limited permits may be issued by an inspector to allow the movement of noncertified regulated articles for specified handling, utilization, processing, or treatment in accordance with approved procedures, provided the inspector has determined that such movement will not result in the spread of *Gibberella fujikuroi* (*bakanae* strains);

(5) When certificates or limited permits are required, they shall be securely fastened to the regulated article or to the outside of the container in which the regulated article is being moved;

(6) Any certificate or limited permit which has been issued or authorized may be withdrawn by the inspector if he or she determines that the holder thereof has not complied with any conditions for the use of such documents or with any conditions contained in a compliance agreement; and

(7)(A) Persons requesting certification or a limited permit must request the services from an inspector or inspectors at least forty-eight (48) hours before the services are needed.

(B) The regulated articles must be assembled at the place and manner in which the inspector designates outside the rice production area.

(C) The following information must be provided at the time the request is submitted:

- (i) The quantity of the regulated article to be moved;
- (ii) The location of the regulated article;
- (iii) The names and addresses of the consignee and consignor;
- (iv) The method of shipment; and
- (v) The scheduled date of shipment.

(g) **Quarantine area.** Any rice production area where *Gibberella fujikuroi* (*bakanae* strains) and/or *Bakanae* (foolish seedling disease) have been confirmed to occur.

(h) **Inspection and disposal.**

(1) An inspector is authorized to stop and inspect any regulated article moving into a rice production area.

(2) Any article found to be infested with *Gibberella fujikuori* (*bakanae* strains) or having originated in an area where *Gibberella fujikuori* (*bakanae* stains) is known to occur and not certified, shall be subject to treatment or confiscation and destruction, without compensation, as required by the board.

(i) **Compliance agreement.**

(1) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he or she:

(A) Maintains such safeguards against the establishment and spread of any infestation;

(B) Complies with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles; and

(C) Cleans and treats means of conveyance and the containers used in the transportation of such articles as may be required by the inspector.

(2)(A) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he or she finds, after notice and opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

(B) Any compliance agreement may be cancelled when compliance is no longer required.

(ii) **Violations and penalties.** Any violation of this part may be subject to civil penalties under the authority of the Arkansas Plant Act of 1917, Arkansas Code § 2-16-203.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-911. Thousand canker disease of black walnut quarantine.

(a)(1) Thousand cankers disease is a disease complex involving the walnut twig beetle (*Pityophthorus juglandis*) and a *Geosmithia* fungus.

(2) These organisms attack and eventually kill walnut trees.

(3)(A) The disease has spread across the western United States and poses a serious threat to the native black walnut trees of Arkansas.

(B) Black walnut trees are prized:

(i) For their:

- (a) Edible nuts;
- (b) Valuable lumber; and
- (c) Ornamental shade qualities; and

(ii) As a vital component in the forest ecosystem.

(4)(A) This quarantine is in place to keep the disease from spreading into Arkansas from infested areas.

(B) The thousand cankers disease quarantine shall be effective on filing of rule.

(C) The specific requirements of the quarantine are as follows.

(b) **Quarantine areas.** Entire states of:

- (1) Arizona;
- (2) California;
- (3) Colorado;
- (4) Idaho;
- (5) Nevada;
- (6) New Mexico;
- (7) Oregon;
- (8) Tennessee;
- (9) Utah;
- (10) Washington; and
- (11) Any other state or foreign country known to be infested.

(c) **Regulated articles.**

(1) All plants and plant parts of the *genera Juglans* including but not limited to nursery stock, budwood, scionwood, green lumber, and other material living, dead, cut, or fallen, including:

- (A) Logs;
- (B) Stumps;
- (C) Roots;
- (D) Branches; and
- (E) Composted and uncomposted chips.

(2) All life stages of the walnut twig beetle (*Pityophthorus juglandis*) and all life stages of the Geosmithia fungus (*Geosmithia morbida*).

(3) Firewood of any nonconiferous (hardwood) species.

(d) **Restrictions.**

(1)(A) Except as otherwise provided herein, all commodities and articles covered are prohibited entry into or through Arkansas from areas under quarantine unless specifically listed as exempt (see subdivision (d)(2) of this section).

(B) No person, firm, corporation, or other entity shall import, plant, receive for delivery, or otherwise accept or bring into Arkansas any regulated articles from any thousand cankers disease of black walnut infested area designated by the State Plant Board.

(2) Commodities exempt from quarantine requirements:

(A) All nuts, nut meat, and hulls of the genera *Juglans*;

(B) Milled lumber one hundred percent (100%) bark-free, kiln-dried with squared edges;

(C) Finished walnut wood products without bark, including walnut:

(i) Furniture;

(ii) Instruments; and

(iii) Gun stocks; and

(D) Nonviable, preserved specimens of the walnut twig beetle (*Pityophthorus juglandis*).

(e) **Penalties.**

(1) As per the existing penalty matrix in this part, see Addendum A.

(2) The quarantine is effective until the board amends the quarantine or determines that the quarantine is no longer necessary.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

2 CAR § 50-912. Emerald ash borer (*Agrilus planipennis*) quarantine.

(a)(1) The destructive pest known as emerald ash bore (*Agrilus planipennis*) is established in other states and has been found in Arkansas.

(2) This pest can be extremely injurious to ash trees (genus *Fraxinus*) and ash nursery stock.

(3) Therefore, it would be in the best interest of Arkansas' citizens and agriculture that a quarantine be established against it.

(b) **Quarantine implementation.** A quarantine is hereby established to regulate the movement of those articles that pose a significant threat of spreading emerald ash borer.

(c) **Definitions.** As used in this section:

(1) "Arkansas State Plant Board" means any authorized employee of the State Plant Board or any other person authorized by the State Plant Board to enforce the provisions of this part;

(2) "Certificate" means a document that:

(A) Is issued for a regulated article by the Director of the State Plant Board or by a person operating under a compliance agreement; and

(B) Represents that such article is eligible for movement;

(3) "Compliance agreement" means a written agreement between the State Plant Board, the United States Department of Agriculture, Animal and Plant Health Inspection Service, and a person engaged in growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions specified in the agreement;

(4) "Emerald ash borer" means the insect known as emerald ash borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development;

(5) "Infestation" means the presence of emerald ash borer or the existence of circumstances that make it reasonable to believe that emerald ash borer is present;

(6) "Inspector" means any authorized employee of the State Plant Board or any other person authorized by the board to enforce the provisions of this part;

(7) "Limited permit" means a document issued or authorized by the State Plant Board or a designated regulatory official to provide for the movement of regulated

articles to a restricted destination for limited handling, utilization, or processing or for treatment;

(8) "Moved (movement, move)" means:

- (A) Shipped;
- (B) Offered for shipment;
- (C) Received for transportation;
- (D) Transported;
- (E) Carried; or
- (F) Allowed to be:
 - (i) Moved;
 - (ii) Shipped;
 - (iii) Transported; or
 - (iv) Carried;

(9) "Person" means any:

- (A) Association;
- (B) Company;
- (C) Corporation;
- (D) Firm;
- (E) Individual;
- (F) Joint stock company;
- (G) Partnership;
- (H) Society; or
- (I) Other legal entity;

(10) "Quarantined area" means an area that has been placed under quarantine, as determined by the State Plant Board; and

(11) "Regulated article" means an article capable of harboring or carrying emerald ash borer, as determined herein.

(d) **Regulated articles.** The following are regulated articles:

- (1) Emerald ash borer;
- (2) Firewood of all hardwood (nonconiferous) species;

(3) Nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, mulch, and composted and uncomposted chips of the genus *Fraxinus*; and

(4) Any other article, product, or means of conveyance not listed in subdivisions (d)(1) – (4) of this section may be designated as a regulated article if the board determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to this part.

(e) **Quarantined areas.** Quarantine areas include:

(1) The following counties in Arkansas are designated as quarantined areas:

- (A) Ashley;
- (B) Bradley;
- (C) Calhoun;
- (D) Clark;
- (E) Cleveland;
- (F) Columbia;
- (G) Dallas;
- (H) Drew;
- (I) Garland;
- (J) Grant;
- (K) Hempstead;
- (L) Hot Springs;
- (M) Howard;
- (N) Jefferson;
- (O) Lafayette;
- (P) Lincoln;
- (Q) Little River;
- (R) Miller;
- (S) Montgomery;
- (T) Nevada;

- (U) Ouachita;
- (V) Pike;
- (W) Saline;
- (X) Sevier; and
- (Y) Union; and

(2) Other counties:

- (A) Where the emerald ash borer is found to be present by the board; or
- (B) Determined by the board to be at high risk for the emerald ash borer.

(f) Conditions governing the movement of regulation articles from quarantined areas. Regulated articles may be moved from a quarantined area only if:

(1) Moved:

- (A) With a certificate or limited permit issued and attached; or
- (B) Without a certificate or limited permit; and

(2) The regulated article:

(A) Is moved by the United States Department of Agriculture for experimental or scientific purposes; or

(B) Originates outside the quarantined area and is moved through the quarantined area under the following conditions:

(i) The points of origin and destination are indicated on a document accompanying the regulated article;

(ii) The regulated article, if moved through the quarantined area during the period of March 1 through October 31 is moved in an enclosed vehicle or is completely covered to prevent access by emerald ash borer;

(iii) The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by the board as not posing a risk of infestation by emerald ash border; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity.

(g) Issuance and cancellation of certificates.

(1) The board, or a person operating under a compliance agreement, may issue a certificate for the movement of a regulated article if he or she determines that the regulated article:

(A) Is apparently free of emerald ash borer, based on inspection;

(B) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the board and based on an inspection, prevents the regulated article from presenting a risk of spreading emerald ash borer;

(C) Is to be moved in compliance with any additional emergency conditions that the board may impose in order to prevent the artificial spread of emerald ash borer; and

(D) Is eligible for unrestricted movement under all other federal domestic plant quarantines and rules applicable to the regulated articles.

(2) The board, or a person operating under a compliance agreement, may issue a limited permit for the movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:

(A) Is to be moved to a specified destination for specific processing, handling, or use (the destination and other conditions to be listed on the limited permit), and this movement will not result in the spread of emerald ash borer because the pest will be destroyed by the specific processing, handling, or use;

(B) Is to be moved in compliance with any additional emergency conditions that the board may impose in order to prevent the spread of emerald ash borer; and

(C) Is eligible for unrestricted movement under all other federal domestic plant quarantines and rules applicable to the regulated article.

(3)(A) The board may issue blank certificates and limited permits to a person operating under a compliance agreement or may authorize the reproduction of blank certificates and limited permits for use on shipping containers.

(B) These certificates and limited permits may then be completed and used for the movement of regulated articles as needed, provided such articles meet all of the requirements of subdivision (g)(1) or (g)(2) of this section.

(4)(A) Any certificate or limited permit may be canceled orally or in writing by the board whenever it is determined that the holder of the certificate or limited permit has not complied with this part.

(B) If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

(h) Compliance agreements and cancellation.

(1)(A) Persons engaged in growing, handling, or moving regulated articles may enter into a compliance agreement if such persons review with the board each provision of the compliance agreement.

(B) Any person who enters into a compliance agreement with the board must agree to comply with the provisions of this part.

(2)(A) Any compliance agreement may be canceled orally or in writing by the board whenever it is determined that the person who has entered into the compliance agreement has not complied with this chapter or any conditions imposed under this part.

(B) If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

(i) Assembly and inspections of regulated articles.

(1) Persons requiring certification or other services shall request the services from the board at least forty-eight (48) hours before the regulated article is to be moved.

(2) The regulated articles must be assembled at the place and in the manner that the board designates as necessary to comply with this part.

(j) Attachment and disposition of certificates and limited permits.

(1) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the movement of a regulated article securely attached at all times during movement to:

(A) The regulated article;
(B) The container carrying the regulated article; or
(C) The consignee's copy of the accompanying document, provided that the description of the regulated article on the certificate or limited permit, and on the document, are sufficient to identify the regulated article.

(2) The carrier must furnish the certificate or limited permit authorizing movement of a regulated article to the consignee at the destination of the shipment.

(k) **Penalties.** Any violation of this part may be subject to civil penalties under the authority of the Arkansas Plant Act of 1917, Arkansas Code § 2-16-203.

Authority. Arkansas Code §§ 2-16-207, 2-16-308, 2-21-106.

Appendix A. Enforcement Response Plan Penalty Matrix Addendum

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/9/2CARpt.50AddendumA.pdf>