

Chapter NR 40: Invasive Species Identification, Classification and Control *Green Industry Summary*

Chapter NR 40, Wis. Admin. Code, went into effect on September 1, 2009 and has been revised as of May 1, 2015. The rule establishes a comprehensive, science-based system with criteria to classify and regulate invasive species in the state of Wisconsin. The rule consists of two categories of species, "Prohibited" and "Restricted," each with associated regulations and control requirements. The rule also establishes "Preventative Measures" to aid in slowing the spread of invasive species. This summary outlines the classifications and regulations as they pertain to plants and, in turn, the nursery industry, and includes the 2015 revisions.

As defined by s. 23.22, Wis. Stats., 'Invasive Species' are nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Prohibited Invasive Plants

- These species are not yet in the state or established in pioneer stands only
- A high potential for environmental and/or economic impacts exists with these species
- It still may be feasible to prevent the introduction and spread of these species statewide and eradicate populations as they are found.

Regulations: Cannot transport, possess, transfer, buy or sell, or introduce without a permit issued by the Wisconsin Department of Natural Resources (DNR). Any viable part of the species, including seeds, is covered by these regulations. Control is required. The state may order or conduct a control effort.



Restricted Invasive Plants

- These species are already established in the state
- High environmental and/or economic impacts are evident with these species
- Complete eradication of these species is unlikely

Regulations: Cannot transport, transfer, buy or sell, or introduce without a permit. Any viable part of the species, including seeds, is covered by these regulations. Control is encouraged but not required.



What this means for the Nursery Industry

Nurseries are on the front line of defense against the spread of invasive species, because nurseries provide plants and expertise to many members of the public. The primary goal of ch. NR 40 is to prevent the introduction and slow the spread of invasive species in Wisconsin. The Wisconsin DNR is using a "stepped enforcement" protocol, which emphasizes education and voluntary compliance as initial steps. However, citations are possible for intentional violations. Remember:

- **It is illegal to buy, sell, offer to sell, give away, or barter any species listed under ch. NR 40, although some exemptions exist (see other side).**
- **Become familiar with the listed plants and their regulated status.**
- **You are responsible to comply with all elements of ch. NR 40.**

Exemptions

- 1) Best Management Practices - The transportation, possession, transfer or introduction of a regulated species may not be considered a violation if:
 - The department determines that the transportation, possession, transfer or introduction was incidental or unknowing, *and* was not due to the person's failure to take reasonable precautions (these include following Best Management Practices).
 - The action occurs for the purpose of identification, control, or disposal, *and* no viable individual specimens or propagules are allowed to escape or be introduced.
 - The action is authorized by a permit issued by the department under this chapter.
- 2) Cultivar Exemptions - Several ornamental species have exemptions for some or all cultivars, allowing continued sale of those cultivars. Note – Unless specifically exempted, all cultivars and hybrids of regulated species are also regulated in the same manner as the parent species.
- 3) Phase-out Period - In order to allow Wisconsin nurseries to sell existing stock, plants regulated as "Restricted" on May 1, 2015 and already in the state as of that date, may be sold for up to 5 years for trees and shrubs and 3 years for herbaceous plants. No further importation or propagation is allowed. This phase-out period does not apply to "Prohibited" species or to species regulated before May 2015.
- 4) Rose Root Stock - Multiflora rose, when used as root stock for ornamental roses, may be transported, transferred or introduced without a permit issued by the department under ch. NR 40.

Control Requirements

Control of **prohibited** species is required. Wisconsin DNR staff may work with landowners and businesses to control or destroy prohibited invasive species.

Any person who grows a **restricted** plant at a nursery shall make a good faith effort to destroy it upon closure of the nursery.

For more information visit DNR's website at:
dnr.wi.gov keywords: "invasives" or "NR 40"

A list of regulated species, including industry synonyms, can be found at:
http://dnr.wi.gov/topic/Invasives/documents/Nursery_plantlist.pdf

The complete rule and additional details can be found at:
<http://dnr.wi.gov/topic/invasives/classification.html>

Best Management Practices can be found at:
<http://dnr.wi.gov/topic/Invasives/bmp.html>

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