



**OKLAHOMA**  
**Agriculture, Food  
and Forestry**

**OKLAHOMA  
HORTICULTURE LAW  
AND  
RULES**

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**OKLAHOMA DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRY & CONSUMER SERVICES DIVISION**

**HORTICULTURE LAW**

**TITLE 2, OKLAHOMA STATUTES SECTIONS 2-3-31.1 THROUGH 2-3-32.9  
OKLAHOMA ADMINISTRATIVE CODE 35:30-13-1 THROUGH 35:30-13-10  
OKLAHOMA ADMINISTRATIVE CODE 35:30-37-1 THROUGH 35:30-37:11  
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## A-1. Oklahoma Horticulture Law

### §2-3-32.1. Definitions

As used in this subarticle:

1. “**Broker**” means any person who negotiates the purchase or sale of any nursery stock. A broker may or may not handle the nursery stock or the proceeds of a sale;
2. “**Certificate**” means a document authorized or prepared by a duly authorized federal or state regulatory official that affirms, declares, or verifies that an article, nursery stock, plant, product, shipment, or any other officially regulated items meet phytosanitary, quarantine, nursery inspection, pest freedom, plant registration or certification, or any other set of legal requirements;
3. “**Compliance agreement**” means any written document between a person and the Oklahoma Department of Agriculture, Food, and Forestry or the United States Department of Agriculture to achieve compliance with any set of requirements being enforced by the Department;
4. “**Cultivar**” means a horticulturally, silviculturally, or agriculturally derived cultivated variety of a plant, as distinguished from a natural variety;
5. “**Dealer**” means any person who sells, brokers, or distributes nursery stock that was not grown from seeds, cuttings, liners, or similar propagative material by the person but which was bought, received on consignment, or acquired and in the person’s possession;
6. “**Facilities**” means and includes all buildings, greenhouses, storage places, cellars, pits, trenches, bins, containers, packing materials, crates, packing rooms, display bins, refrigerators, ice boxes, and any other structures and materials used in storing, transporting, and distributing nursery stock. The nursery, dealer, or agent shall maintain the facilities as are necessary for the proper care and conservation of nursery stock;
7. “**Grower**” means any person who raises, grows, or propagates for profit or other reasons any nursery stock or plant;
8. “**Heel yard**” means any plant holding area;
9. “**Horticulture**” means the discipline of agriculture science relating to the cultivation of gardens or orchards, including, but not limited to the growing of vegetables, flowers, and ornamental trees and shrubs;

10. "**Landscaper**" means a person who purchases nursery stock and offers that stock for sale or planting through landscape services and typically does not hold and maintain plants in a heel yard or nursery;
11. "**Native species**" means a species that, other than due to an introduction, historically occurred or currently occurs in that ecosystem;
12. "**Nursery**" means and includes any field, ground, greenhouse, bin, pit, plot, or premise where nursery or floral stock is grown, propagated, or sold;
13. "**Nursery operator**" means the person who owns, leases, manages, or is in control of a nursery, and is any person who is a grower of nursery stock;
14. "**Nursery stock**" means and includes, whether in field or container, all trees, shrubs, vines, rosebushes, turfgrass, cuttings, grafts, scions, fruit pits, herbaceous plants, evergreens and other ornamental trees, bushes, collected wild plants and trees, decorative plants, tropical plants, flowering plants, bedding plants, vegetable plants for transplanting, aquatic plants, roots, corms, rhizomes, bulbs, and ferns grown for propagation, all packing materials, and other things used in the handling, storing, crating, and shipping of nursery stock. "Nursery stock" does not include cut Christmas trees, wreaths, seeds, vegetables or fruits, agronomic crops, cut or dried flowers, and cut or dried herbs;
15. "**Phytosanitary certificate**" means a document issued indicating that the specified live plants or plant products comply with the legal requirements of the importing state or country. The document may be either a State Phytosanitary Certificate or Federal Phytosanitary Certificate;
16. "**Place of business**" means each separate store, stand, sales lot, or any other place at or from which nursery stock is being sold or offered for sale;
17. "**Plant pest**" means any pest known to cause damage or harm to plants, agricultural commodities, horticultural products, nursery stock, silvicultural interests, or the environment. Plant pest includes, but is not limited to, insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma-like organisms, weeds, plants, or other parasitic higher plants;
18. "**Sales location**" means any principal business location where nursery stock is sold directly to a customer;
19. "**Sell**" means to offer for sale, expose for sale, possess for sale, exchange, barter, or trade;
20. "**Silviculture**" means the development and care of forests;

21. **“Stop sale”** means a legal document issued by the State Board of Agriculture that prevents the production of or sale of nursery stock due to an infestation of a plant pest; and
22. **“Turfgrass sod”** means a strip or section of one or more grasses or other plants acceptable for lawn plantings which, when severed from its growing site, contains sufficient plant roots to remain intact, and does not contain weeds in excess of the amount specified by the Board.

### **§2-3-32.2. Inspections**

- A.
  1. The Oklahoma Department of Agriculture, Food, and Forestry shall have the authority to inspect any orchard, fruit, garden, park, cemetery, private premises, public place, or any place that may be infested with a plant pest that may be a threat to plants belonging to other property owners or the health or safety of the general public.
  2. The Department may inspect any nursery stock, shipping documents, treatment records, sales records, or other relevant documents of any person, whether licensed with the Department or not, to determine the distribution of nursery stock.
  3. The Department may take samples removed of nursery stock in order to determine compliance with this subarticle. If the Department finds that the samples are not in compliance with this subarticle, the Department’s finding shall be considered prima facie evidence that a violation has occurred.
- B. The Department shall have the authority to issue notices of violation, citations, compliance orders, conditional orders, stop sales orders, stop work orders, quarantines, or any other order authorized pursuant to the Oklahoma Agricultural Code.
- C. Any nursery stock distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce may be seized or caused to be destroyed by the Department in any county of the state where it may be found if:
  1. The nursery stock is devitalized or infested with a plant pest and may become a threat to plants belonging to other persons or the health, safety, or welfare of the general public; or
  2. The nursery stock does not bear the proper certificate, plant tag information, or the required inspection or shipping information.
- D. The Department shall also have the authority to order the owner, occupant, or person in charge to take any necessary action including, but not limited to, the

proper treatment or destruction of infested or diseased plants pursuant to the Oklahoma Agricultural Code and the Administrative Procedures Act.

- E. For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding nursery stock sales or distribution that is more stringent than the rules of the State Board of Agriculture.

### **2-3-32.3. Dangerous plant pests - Sale - Notice**

A person shall not knowingly propagate, sell, or offer for sale any nursery stock infested or infected with any plant pest. If the State Board of Agriculture finds any plant pest at any nursery or dealer's facility, the Board shall notify the owner or person in control of the nursery or facility in writing. The Board shall issue a stop sale until treatment or destruction of the plant pest on nursery stock or in the facility is completed. No damages shall be awarded to the owner for the loss of infested or infected trees, plants, shrubs, or other plant material destroyed as a result of an order of the Board.

### **§2-3-32.4. Inspection certificates**

All nursery stock shipped into Oklahoma shall have a certificate on each package stating that the contents were inspected by an authorized inspecting officer and that the contents appear free from plant pests. The State Board of Agriculture shall have the authority to inspect all nursery stock. The Board shall have the authority to order any nursery stock which may be infested with any plant pests destroyed or returned to the consignor at the consignor's expense.

### **§2-3-32.5. Vegetable plants and transplants**

All vegetable plants or transplants in flats, crates, baskets or containers, regardless of origin, shall have affixed to the outside, a tag bearing:

1. The name and address of the grower or dealer for whom this inspection was conducted, except at the grower's location; and
2. The variety and/or cultivar name under which the vegetable plants are sold.

### **§2-3-32.6. Turfgrass sod**

- A. A seller of turfgrass sod shall be required to state on the sales contract, invoice, or bill of lading the following information:
  1. The variety and the named blend or mixture of turfgrass; and
  2. Each different lot of harvested turfgrass sod shall be identified by a sign stating the variety, kinds, or name blend or mixture as stated on the invoice or bill of lading from the shipper when offered or exposed for sale.



- B. All growers shall provide the legal description of all growing fields of sod to the State Department of Agriculture.

**§2-3-32.7. Licenses and Inspection fees**

- A. The fee for each grower or dealer, license issued or renewed and inspection conducted shall be as follows:
  - 1. Grower's license fee - Twenty five Dollars (\$25.00) for each business location;
  - 2. Grower's inspection fee - One Dollar (\$1.00) per acre or 1000 square feet of greenhouse area inspected; and
  - 3. Dealer's license fee - Thirty-eight Dollars (\$38.00) for each business location.
- B. No fee shall be charged for a grower's license issued to any scientific, agricultural, or horticultural club, educational or eleemosynary institution, or any department or branch of the state or federal government.
- C. All licenses shall expire at a date to be determined by the State Board of Agriculture. Failure to remit the license fee by the 15th of the month following the expiration month shall result in a penalty fee equal to the cost of the license.
- D. A person shall obtain a license prior to selling or dealing in nursery stock.
- E. All licenses are nontransferable upon any change of ownership.
- F. All penalties, fees, and monies collected under this program shall be paid to the State Department of Agriculture and deposited in the State Department of Agriculture Revolving Fund.

**§2-3-32.8. Violations**

It shall be unlawful for any person to knowingly or willfully violate any of the provisions of this subarticle or any rules of the State Board of Agriculture by:

- 1. Misrepresenting to another their connection with a nursery, or to:
  - a. misrepresent the grade, character, variety, or quality of any nursery stock,
  - b. make a false declaration of acreage,
  - c. conceal any nursery stock from inspection, or

- d. offer for sale nursery stock which is seriously or substantially devitalized;
2. Failing to furnish the Oklahoma Department of Agriculture, Food, and Forestry with true and exact copies of order forms, contracts, and agreements with customers;
3. Failing to furnish each purchaser, upon request, a true and correct invoice of each purchase, stating the variety, quality, age, or size of the stock to which the invoice applies;
4. Selling, offering for sale, or distributing any nursery stock infected or infested with a plant pest;
5. Selling, offering for sale, or distributing nursery stock that is not healthy, sound, and capable of growth;
6. Failing to carry out treatment or destruction of nursery stock as ordered by the Board;
7. Misrepresenting or falsifying information on a license application;
8. Doing business without a valid license;
9. Allowing a license to be used by any person other than the person to whom it was issued;
10. Failing to notify the Board of the legal description of all growing locations of nursery stock or sod;
11. Failing to allow an authorized agent to complete an inspection or collect adequate samples;
12. Selling nursery stock restricted by a stop sale order;
13. Selling, moving, or distributing nursery stock or other material under a quarantine;
14. Mislabeling nursery stock by using the wrong common name or botanical name;
15. Transporting any regulated article into the state from a quarantined area of any other state or country when the article has not been treated or handled as provided by the requirements of the quarantine;
16. Interfering with, hindering, or impeding, by any method, any authorized agent of the Board in the performance of duties;

17. Falsifying or using false information to ship nursery stock out of Oklahoma into any other state in the United States or any country outside of the United States or making a false statement regarding the condition, quality, grade, character, variety, or treatment used; or
18. Failing to comply with any order of the Board.

### **§2-3-32.9. Quarantines**

The State Board of Agriculture shall have the authority to establish a quarantine and promulgate rules prohibiting or restricting the transportation into or through Oklahoma from any other state, country, territory, or district of any nursery stock, or other article, of any character, capable of carrying plant pests. The quarantine shall show the boundaries of the area or place quarantined and the conditions of the quarantine. The Board shall have the authority to promulgate rules for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plants, plant products, or other article, of any character, capable of carrying harmful plant pests.

## **SUBCHAPTER 4. THOUSAND CANKERS DISEASE**

### **35:30-4-1. Establishment of quarantine**

The State Board of Agriculture does hereby establish a quarantine for thousand cankers disease of walnut exterior.

### **35:30-4-2. Regulated area**

Regulated articles from the entire states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and any other state or foreign country known to be infested with thousand cankers disease of walnut exterior shall be quarantined.

### **35:30-4-3. Regulated articles**

The following shall be regulated pursuant to this quarantine:

- (1) All plant and plant parts of the genus *Juglans* including but not limited to nursery stock, budwood, scionwood, green lumber, and other living, dead, cut, or fallen, including logs, boards, firewood, stumps, burls, roots, branches, bark, mulch, chips, and lumber for wood packing material;
- (2) All life states of the walnut twig beetle (*Pityophthorus juglandis*); and
- (3) The fungal pathogen *Geosmithia morbida* sp. nov.

#### **35:30-4-4. Conditions governing movement**

- (a) All regulated articles originating from quarantined areas are prohibited entry into or transition through the State of Oklahoma unless accompanied by a phytosanitary certificate from the state of origin declaring, "The article was officially inspected after harvest and found free of the fungus *Geosmithia*, the walnut twig beetle, and bark, and the articles were stored in such a manner to remain free of the walnut twig beetle in storage and transit."
- (b) Regulated articles originating in an area not known to have thousand cankers disease but in transit through an area known to have thousand cankers disease shall be regulated articles.
- (c) Regulated articles to be used for research purposes may move pursuant to a compliance agreement with the Oklahoma Department of Agriculture, Food, and Forestry.

#### **35:30-4-5. Movement for scientific purposes**

Interstate and intrastate movement of regulated articles and all living stages of the walnut twig beetle (*Pityophthorus juglandis*) and the thousand canker disease fungal pathogen, *Geosmithia morbida* sp. nov., for scientific or experimental purposes may move under a compliance agreement and scientific permit.

### **SUBCHAPTER 6. EMERALD ASH BORER QUARANTINE**

#### **35:30-6-1. Establishment of quarantine**

The State Board of Agriculture does hereby establish a quarantine for emerald ash borer, *Agrilus planipennis*.

#### **35:30-6-2. Regulated area**

Regulated articles from Delaware County, Oklahoma, and any other counties, states, or foreign country known to be infested with emerald ash borer shall be quarantine.

#### **35:30-6-3. Regulated articles**

The following articles shall be regulated pursuant to this quarantine:

- (1) Emerald ash borer, *Agrilus planipennis*;
- (2) Firewood of all hardwood (non-coniferous) tree species;
- (3) Nursery stock, green lumber, and other living, dead, cut, or fallen material, including logs, stumps, roots, branches, mulch, and both composted and uncomposted chips of the genus *Fraxinus* (ash); and

- (4) Any other article, product, or means of conveyance not listed in this section may be designated as a regulated if determined by the Oklahoma Department of Agriculture, Food, and Forestry to present a risk of spreading emerald ash borer.

#### **35:30-6-4. Conditions governing movement**

- (a) All regulated articles originating from quarantined areas shall be prohibited entry to any destination outside the quarantined area.
- (b) Regulated articles originating in an area not known to have emerald ash borer but transiting through an area known to have emerald ash borer shall be considered to be regulated articles. The point of origin shall be indicated on shipping documents and accompanied by a certificate of inspection for this pest.

#### **35:30-6-5. Movement for scientific purposes**

Interstate and intrastate movement of regulated articles and all living stages of the emerald ash borer, *Agrilus planipennis*, for scientific or experimental purposes shall only move under a compliance agreement and scientific permit.

### **SUBCHAPTER 8. COTTON SEED BUG QUARANTINE**

#### **35:30-8-1. Establishment of quarantine**

The State Board of Agriculture does hereby establish an external quarantine for the cotton seed bug (*Oxycareus hyalinipennis*).

#### **35:30-8-2. Regulated area**

Regulated articles from the State of California, and any other state or foreign country known to be infested with the cotton seed bug (*Oxycareus hyalinipennis*) shall be quarantined.

#### **35:30-8-3. Regulated articles**

The following shall be regulated pursuant to this quarantine:

- (1). All plant and plant parts of the family Malvaceae including, but not limited to, nursery stock and other living, dead, cut, or fallen fruit, fruiting structures, or seeds;
- (2). All life stages of the cotton seed bug. (*Oxycareus hyalinipennis*); and
- (3). All equipment used for the production and transportation of cotton.

#### **35:30-8-4. Conditions governing movement**

- (a) All regulated articles originating from quarantines areas are prohibited entry into or transition through the State of Oklahoma unless the articles are:
  - (1) Accompanied by a phytosanitary certificate from the state of origin declaring the articles have been officially inspected after harvest and found free of the cotton seed bug (*Oxycarenum haylinipennis*) and the articles have been stored in such a manner to remain free of the cotton seed bug in storage and transit; or
  - (2) Included in a cooperative agreement with the Oklahoma Department of Agriculture, Food, and Forestry.
- (b) Regulated articles originating in an area not known to have cotton seed bug but in transit through an area known to have the cotton seed bug shall be regulated articles.

#### **35:30-8-5. Movement for Scientific Purposes**

Interstate and intrastate movement of regulated articles for scientific or experimental purposes shall be exempt from the provisions of 35:30-8-4 and may move under a compliance agreement and scientific permit, as required.

### **SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE**

#### **35:30-13-1. Establishment of quarantine**

- (a) It has been determined that Imported Fire Ants *Solenopsis* spp. have become established in Oklahoma and in certain other states. This insect interferes with farming activities, causes damage to certain crops, and is a pest of livestock and pets, as well as of people in rural and urban areas.
- (b) A quarantine and rules are established. This subchapter sets forth the name of the pest against which the quarantine is established, the definitions of the terms used, the regulated areas, the regulated material, and the conditions governing the movement of regulated material into, within, and from the State of Oklahoma.

#### **35:30-13-2. Definitions**

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

1. **"Certificate"** means a document issued by an authorized agent of the Department of Agriculture of the state of origin of the regulated articles to allow the movement of regulated articles to any destination within or from the State of Oklahoma.

2. **"Compacted soil"** means soil attached to equipment which cannot be removed by brisk brushing and/or washing with water under normal city water pressure.
3. **"Compliance Agreement"** means an agreement to comply with stipulated conditions executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.
4. **"Infestation"** means actually contaminated by the pest or so exposed to contamination by the imported fire ant that it is reasonable to believe that an infestation exists.
5. **"Mechanized soil"** means moving equipment, mechanized equipment used to move or transport soil, e.g., draglines, bulldozers, road scrapers, and dumptrucks.
6. **"Moved (Movement and move)"** means shipped, offered for shipment to a common carrier, or carried, transported, moved, or allowed to be moved by any person within the State of Oklahoma or from any regulated area.
7. **"Pest"** means all living stages of the Imported Fire Ant (*Solenopsis* spp.).
8. **"Regulated Area"** means any area described or designated as regulated.
9. **"Regulated Articles"** means Imported Fire Ants, soil and any other products and articles of any character whatsoever, the movement of which is regulated by this quarantine.
10. **"Scientific permit"** means a document issued by an authorized agent of the Department of Agriculture of the state of origin of the regulated articles, or issued by the Deputy Administrator of the USDA, to allow the intrastate and/or interstate movement of regulated articles for scientific purposes.
11. **"Soil"** Soil shall be considered that part of the upper layer of earth in which plants grow.

### 35:30-13-3. Regulated area

Imported Fire Ant regulated areas are the areas designated as quarantined areas in 7 CFR 301.81.3 and:

OKLAHOMA: Counties of

- (A) Bryan, Jefferson, and McCurtain (1986);
- (B) Marshall (Additional Infested Area 1987);
- (C) Carter, Choctaw, Comanche, Johnston, and Love;
- (D) Le Flore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson (2009);
- (E) Latimer (2017); and
- (F) Pittsburgh (2020).

#### **35:30-13-4. Regulated Articles**

Regulated articles are as follows:

- (1) Soil, separately or with other things.
- (2) Plants with soil attached, except houseplants grown in the home and not for sale.
- (3) Grass sod.
- (4) Used mechanized soil-moving equipment.
- (5) Hay and Straw.
- (6) Any other products, articles, or other means of conveyance, of any character whatever, not covered by subparagraphs (1) through (5) of this section, when it is determined by an authorized agent that they present a hazard of Imported fire Ant, and the person in possession has been so notified.

#### **35:30-13-5. Articles certification exemptions**

- (a) The following articles are exempt from the certification, permit, or other requirements if they meet the conditions prescribed and have not been exposed to infestation after cleaning or other handling.
  - (1) Potting soil, if commercially prepared, packaged and shipped in original containers.
  - (2) Hay and straw, if being used for packing and bedding.
  - (3) Used mechanized soil-moving equipment, if cleaned of all loose, noncompacted soil.
  - (4) Transplants, if substantially free of soil.
- (b) Soil samples for processing, testing or analysis may be moved from a regulated area (without a certificate or permit) only to approved laboratories (i.e., plant food analysis) or only in emergencies under authorization from an authorized agent.

#### **35:30-13-6. Interstate movement restrictions**

- (a) Certificates shall indicate that the regulated articles are free of all living stages of the Imported Fire Ant. Federal certificates or permits may be used in lieu of certificate of state of origin if the interstate shipper meets the requirements of law.



- (b) In all cases, certificates or permits must be furnished by the carrier to the consignee at destination of the shipment.

### **35:30-13-7. Movement for scientific purposes**

Interstate and intrastate movement of regulated articles and all living stages of the Imported Fire Ant for scientific or experimental purposes shall be permitted under scientific permit.

### **35:30-13-8. Intrastate movement**

The movement of the Imported Fire Ant and restricted articles is prohibited within the State of Oklahoma from a regulated area to or through a nonregulated area unless accompanied by authenticated certificate or permit.

### **35:30-13-9. Interstate movement**

The movement of the Imported Fire Ant and/or regulated articles into the State of Oklahoma from infested states is prohibited unless the shipments are made in accordance with the provisions of the rules and regulations regarding the Imported Fire Ant quarantine of the United States Department of Agriculture (Federal Quarantine No.81) and/or the Board.

### **35:30-13-10. Inspection and disposal**

- (a) Any properly identified agent of the Department is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within or into the State of Oklahoma upon probable cause to believe that the means of conveyance or articles, are infested with the Imported Fire Ant, and the agent is authorized to seize, treat, destroy, or dispose of articles found to be moving in violation of this Subchapter.
- (b) The cost of treatment, disposal, and/or destruction of any regulated article shall be borne by the shipper and/or carrier.

## **SUBCHAPTER 37. NURSERY STOCK SALES**

### **35:30-37-1. Storage and display of nursery stock**

- (a) Balled and burlapped nursery stock shall be maintained by surrounding and covering the earth ball with sawdust, peat, shingle, or other wettable material non-toxic to plants. The moisture holding material shall be kept moist at all times.
- (b) Container grown nursery stock shall be watered sufficiently to maintain the viability and vigor of the stock and shall be held under temperatures that shall permit normal growth.

- (c) Bare-root nursery stock shall be kept under conditions of temperatures and moisture to retard growth and maintain viability.
- (d) Prepackaged nursery stock with roots packaged in moisture retaining plastic, peat, shingletow, or other moisture-retaining material non-toxic to plants shall be stored and displayed under conditions that shall retard etiolated (non-green) or abnormal growth and shall ensure an adequate supply of moisture to the roots at all times.

**35:30-37-2. Minimum vitality guide of nursery stock**

- (a) Woody stemmed deciduous nursery stock like fruit and shade trees, and flowering shrubs shall have moist, green cambium tissue, in the stem or stems and branches and shall have viable buds or normal green, unwilted growth sufficient to permit the stock to live and grow in a form characteristic of the species when planted and given reasonable care
- (b) Hardy herbaceous perennials or perennials when in a wilted, rotted or any other condition indicative of subnormal vitality shall not be sold or offered for sale.
- (c) Any bare-rooted or prepackaged nursery stock shall have the sprouts removed, as they greatly decrease the vitality of the stock over a period of time.
- (d) Balled and burlapped nursery stock in a weakened condition as evidenced by die-back or dryness of foliage or the stock having broken or loose earth balls shall not be sold or offered for sale.
- (e) Nursery stock on display at sales outlets not meeting the minimum vitality requirements shall be removed from public view by the owner or person in charge and not offered for sale.

**35:30-37-3. Rosebush sales**

- (a) The sprouts of a rosebush shall be removed as this will cause an increase in the devitalization of the bush.
- (b) Rosebushes shall have moist green cambium in the cane or canes in at least the first four (4) inches above the graft. Any single stem not meeting this requirement disqualifies the entire bush. A bush may be pruned to comply with the specification if at least one stem meeting the specification remains.
- (c) The individual rosebush shall have a well developed and well proportioned root system sufficient to yield a normal growth when properly planted
- (d) No green wax or other colored coating is permitted on rose canes which may conceal harmful insects and diseases or conceal the true condition of the cane.

- (e) The non-waxed rose canes shall show no shriveling or blackening from drying, or other damage, but shall be free of shriveling and a live, healthy condition shall be indicated by the cambium layer.
- (f) In the event of freeze damage, a rosebush shall be considered viable if 70% of the cambium, four (4) inches above the bud union, and 100% at the bud union remains in good growing condition.

#### **35:30-37-4. Prepackaged rosebushes**

Prepackaged rosebushes with root systems packaged in moisture retaining material non-toxic to plants shall be stored and displayed under conditions that shall retard sprouting (and shall ensure an adequate supply of moisture to the roots at all times).

#### **35:30-37-5. Bare-rooted rosebushes**

Bare-rooted rosebushes shall be maintained under conditions of temperature and moisture which shall retard growth and preserve vitality. Moisture shall be supplied to the root system by high humidity conditions in storage or by covering the roots with a moisture holding material non-toxic to the bush, this material shall be kept moist at all times.

#### **35:30-37-6. Inspection of plants, plant products, and other material and inspection fees**

- (a) Authorized agents shall have the authority to inspect any plant or plant product for the purpose of export. Plant products shall be inspected for insect pests and plant diseases and identified treatments may be required to meet export requirements. For phytosanitary inspection and certificate the exporter shall pay a fee determined by the Board and consistent with the USDA-APHIS Appendix 1 Fees and Costs.
- (b) A person may request inspection of plants and other material by the Board prior to movement or sale. The Board may assess fees to cover the cost associated with those inspections. Funds generated from the fees shall be deposited in a nonlapsing account and used to conduct the inspections.

#### **35:30-37-7. Exemptions to inspection fees**

- (a) Any scientific, agricultural club, horticultural club, garden club, educational or eleemosynary institution, and any department or branch of the state or federal government is exempt from inspection fees.
- (b) One time garage sales with fewer than 15 plants are exempt from inspection fees.

#### **35:30-37-8. Expiration dates and late fees**

- (a) All dealer and landscaper licenses shall expire annually on December 31st.

- (b) All grower licenses shall expire annually on September 30th.
- (c) A late fee equal to the amount of the license fee shall be assessed in addition to the license fee and shall be due after the 15<sup>th</sup> day of the month following the renewal month.
- (d) As used in this subchapter, the term "grower" means a person engaged in the production of nursery stock from cuttings, plugs, seeds, or transplants for wholesale or retail sale.

**35:30-37-9. Revocation of certificates**

After affording the certificate or license holder an opportunity for a hearing, the Board shall have the power to revoke any certificate, permit, or license for any violation of this Subarticle or nonconformity with any rule promulgated by the Board.

**35:30-37-11. Prohibited sales of aquatic plants**

A person shall not knowingly propagate, sell, or offer for sale any aquatic plant pest. "Aquatic plant pest" shall include, but not be limited to, any aquatic plant species listed as a noxious aquatic plant in OAC:20-3-2 (a) and (b).

<u>Scientific Name</u>	<u>Common Name(s)</u>
<i>Azolla pinnata</i>	Mosquito Fern
<i>Caulerpa taxifolia</i>	Mediterranean clone of Caulerpa
<i>Eichhornia azurea</i>	Anchored Water Hyacinth
<i>Glossostigma diandrum</i>	Mud Mat
<i>Hydrilla verticillata</i>	Hydrilla
<i>Hygrophila polysperma</i>	Indian Hygrophila
<i>Ipomea aquatica</i>	Water Spinach
<i>Lagarosiphon major</i>	African Elodea
<i>Limnophila sessiliflora</i>	Asian Marshweed
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Marsilea quadrifolia</i>	European Water Clover
<i>Marsilea mutica</i>	Australian Water Clover
<i>Marsilea minuta</i>	Dwarf Water Clover
<i>Melaleuca quinquenervia</i>	Paperbark Tree
<i>Monochoria hastata</i>	Cat's Claw
<i>Ottellia alismoides</i>	Duck Lettuce
<i>Sagittaria sagittifolia</i>	Japanese Arrowhead
<i>Salvinia auriculata</i>	Giant Salvinia
<i>Salvinia biloba</i>	Giant Salvinia
<i>Salvinia herzogii</i>	Giant Salvinia
<i>Salvinia molesta</i>	Giant Salvinia
<i>Solanum tampicense</i>	Wetland Nightshade
<i>Sparganium erectum</i>	Exotic Bur Reed

### **SUBCHAPTER 3**

#### **35:2-3-12. Schedule of horticulture program fees**

- (a) The fee for each Federal Phytosanitary Certificate issued or renewed shall be as follows:
  - (1) Federal Phytosanitary Certificate PPQ Form 577:
    - (A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:
      - i. One Hundred and Six Dollars (\$106.00)
    - (B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:
      - i. Sixty One Dollars (\$61.00)
  - (2) Federal Phytosanitary Certificate PPQ Form 578:
    - (A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:
      - i. One Hundred and Six Dollars (\$106.00)
    - (B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:
      - i. Sixty One Dollars (\$61.00)
  - (3) Federal Phytosanitary Certificate PPQ Form 579:
    - (A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:
      - i. One Hundred and Six Dollars (\$106.00)
    - (B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:
      - i. Sixty One Dollars (\$61.00)
    - (C) Ten Dollars (\$10.00) for the re-issuance of a Federal Phytosanitary Certificate.
- (b) All Federal Phytosanitary Certificates shall require an administrative fee paid by the Department to USDA in the following amounts:
  - (1) Six Dollars (\$6.00) if the certificate is issued in PCIT.

- (2) Twelve Dollars (\$12.00) if the certificate is issued outside of PCIT.
- (c) The fee for each State Phytosanitary Certificate issued or renewed shall be as follows:
  - (1) If the aggregate commercial value of the product inspected for certification is Two Hundred Fifty Dollars (\$250.00) or more: Twenty Dollars (\$20.00).
  - (2) If the aggregate commercial value of the product inspected for certification is Two Hundred Forty-nine Dollars (\$249.00) or less: Five Dollars (\$5.00).
  - (3) If you do not have an Oklahoma nursery license, the Phytosanitary Certificate fee shall be Twenty Dollars (\$20.00) regardless of aggregate commercial value.
  - (4) There shall be no fee for the issuance of a Phytosanitary Certificate if it is required by the Japanese Beetle Harmonization Plan unless a treatment is monitored by an authorized agent of the Board.
- (d) The fee for each grower, dealer, and landscaper license issued or renewed and inspection conducted shall be as follows:
  - (1) Growers license – Twenty-five Dollars (\$25.00) for each business location.
  - (2) Growers inspection fee – One Dollar (\$1.00) per acre and per 1,000 square feet of greenhouse area inspected.
  - (3) Dealers license fee - Thirty-eight Dollars (\$38.00) for each business location.
  - (4) Landscaper or Personal Use Only license fee – One Hundred Dollars (\$100.00) for each business location.
  - (5) No fee shall be charged for a license issued to any scientific, agricultural, or horticultural club, educational or eleemosynary institution, or any department or branch of the state or federal government:
  - (6) Failure to remit the license fee by the 15<sup>th</sup> day of the month following the expiration month shall result in a penalty fee equal to the cost of the license.
- (e) A fee of Twenty-Five Dollars (\$25.00) shall be charged for any requested inspection or certification and shall be payable at the time of inspection and includes inspections and certificates issued for transporting plants.
- (f) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

### **35:30-37-13. Prohibited sale of noxious weeds**

Plants listed on the Federal Noxious Weed list, 7 CFR § 360.200, are prohibited from propagation, sale, or distribution in Oklahoma. This shall include sterile varieties of *Imperata cylindrica*.