

**Document:** Proposed Rule, **Register Page Number:** 26 IR 1123

**Source:** January 1, 2003, Indiana Register, Volume 26, Number 4

**Disclaimer:** This document was created from the files used to produce the official CD-ROM Indiana Register . However, this document is unofficial.

## TITLE 312 NATURAL RESOURCES COMMISSION

### **Proposed Rule** LSA Document #02-202

#### DIGEST

Amends 312 IAC 18-3-8 that governs the standards for the control of black stem rust by adding new varieties to the list of rust-resistant Berberis, Mahoberberis, and Mahonia species. Effective 30 days after filing with the secretary of state.

### **312 IAC 18-3-8**

SECTION 1. 312 IAC 18-3-8, AS READOPTED AT 26 IR 546, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

#### **312 IAC 18-3-8 Control of black stem rust**

**Authority:** IC 14-10-2-4; IC 14-24-3

**Affected:** IC 14-24-5

Sec. 8. (a) Black stem rust is a pest or pathogen. This section governs standards for the control of black stem rust in Indiana.

(b) The following items are regulated under this section:

(1) Seedlings and plants ~~which that~~ exhibit growth for less than two (2) years of the genus Berberis.

(2) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant Berberis species:

**B. aggregata x B. wilsoniae “Pirate King”**

**B. “Amstelveen”**

B. aridocalida

B. beaniana

B. buxifolia

B. buxifolia nana

B. calliantha

B. candidula

**B. candidula “Amstelveen”**

**B. candidula x B. verruculosa “Amstelveen”**

B. cavallieri

B. chenaulti

B. chaneulti “Apricot Queen”

B. circumserrata

B. concinna

B. coxii

B. darwini

B. dasystachya

B. dubia

B. feddeana

B. formosana

B. franchetiana

B. gagnepaini

**B. gagnepaini “Chenault”**

B. gilgiana  
B. gladwynensis  
B. gladwynensis “William Penn”  
B. gyalica  
B. heterophylla  
B. horvathi  
B. hybrido-gagnepaini  
B. insignis

**B. integerrima “Wallichs Purple”**

B. julianae  
B. julianae “Nana”  
B. julianae “Spring Glory”  
B. koreana  
B. koreana x B. thunbergii hybrid Bailset  
B. koreana x B. thunbergii hybrid Tara  
B. lempergiana  
B. lepidifolia  
B. linearifolia  
B. linearifolia var. “Orange King”  
B. lologensis

**B. lologensis “Mystery Fire”**

B. manipurana  
B. media “Park Jewel”

**B. media “Red Jewel”**

B. mentorensis  
B. pallens  
**B. poiretii “BJG 073”, “MTA”**

B. potanini  
B. renton  
B. replicata  
B. sanguinea  
B. sargentiana  
B. sikkimensis

**B. soulieana “Claret Cascade”**

B. stenophylla  
B. stenophylla diversifolia  
B. stenophylla gracilis  
B. stenophylla irwini  
B. stenophylla nana compacta  
B. taliensis  
B. telomaica artisepala  
B. thunbergii

**B. thunbergii “Antares”**

B. thunbergii argenteo marginata  
B. thunbergii atropurpurea  
B. thunbergii atropurpurea erecta  
B. thunbergii atropurpurea erecta Marshalli  
B. thunbergii atropurpurea “Golden King”  
B. thunbergii atropurpurea “Intermedia”  
B. thunbergii atropurpurea “Knight Burgundy”  
B. thunbergii atropurpurea nana

B. thunbergii atropurpurea “Redbird”  
 B. thunbergii atropurpurea “Rosy Glow”  
 B. thunbergii aurea  
**B. thunbergii “Aurea Nana”**  
 B. thunbergii “Bagatelle”  
**B. thunbergii “Bailgreen” (Jade Carousel™)**  
**B. thunbergii “Bailone”**  
**B. thunbergii “Bailone” (Ruby Carousel®)**  
**B. thunbergii “Bailtwo”**  
**B. thunbergii “Bailtwo” (Burgundy Carousel®)**  
 B. thunbergii “Bonanza Gold”  
**B. thunbergii “Concorde”**  
 B. thunbergii “Crimson Pygmy”  
**B. thunbergii “Criruzam” Crimson Ruby™**  
 B. thunbergii “Dwarf Jewell”  
 B. thunbergii erecta  
 B. thunbergii “globe”  
 B. thunbergii “golden”  
**B. thunbergii “Golden Pygmy”**  
**B. thunbergii “Green Carpet”**  
**B. thunbergii “Harlequin”**  
 B. thunbergii “Helmond Pillar”  
 B. thunbergii ~~“Kobald”~~ **“kobold”**  
**B. thunbergii “Lime Glow”**  
**B. thunbergii “Lustre Green”**  
 B. thunbergii maximowiczii  
**B. thunbergii “Midruzam” Midnight Ruby™**  
 B. thunbergii minor  
 B. thunbergii “Monlers”  
**B. thunbergii “Monomb”**  
**B. thunbergii “Monry”**  
**B. thunbergii “Painter’s Palette”**  
**B. thunbergii “Pink Queen”**  
 B. thunbergii pluriflora  
**B. thunbergii “Royal Burgundy”**  
**B. thunbergii “Royal Cloak”**  
 B. thunbergii “Sparkle”  
 B. thunbergii “Thornless”  
 B. thunbergii “Upright Jewell”  
 B. thunbergii variegata  
 B. thunbergii xanthocarpa  
**B. thunbergii x “Bailsel” (Golden Carousel®)**  
**B. thunbergii x “Tara” (Emerald Carousel®)**  
 B. triacanthophora  
 B. triculosa  
 B. verruculosa  
 B. virgatorum  
 B. workingensis  
 B. xanthoxylon  
**B. x carminea “Pirate King”**  
**B. x frikartii “Amstelveen”.**

(3) All plants, seedlings, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant

Mahoberberis and Mahonia species, except Mahonia cuttings for decorative purposes:

(A) The following genera Mahoberberis:

M. aquicandidula

**M. aquifolium "Smaragd"**

M. aquisargentiae

M. miethkeana

**M. x "Magic".**

(B) The following genera Mahonia:

M. amplexans

M. aquifolium

M. aquifolium atropurpurea

M. aquifolium compacta

M. aquifolium compacta "John Muir"

M. aquifolium "Donewell"

M. aquifolium "Kings Ransom"

M. aquifolium "Orange Flame"

**M. aquifolium "Undulata"**

M. aquifolium "Winter Sun"

M. "Arthur Menzies"

M. bealei

M. dictyota

M. fortunei

M. "Golden Abundance"

M. japonica

**M. japonica x M. lomariifolia "Charity"**

M. lomarifolia

M. nervosa

M. pinnata

M. pinnata "Ken Hartman"

M. piperiana

M. pumila

M. repens

**M. x media "Charity"**

**M. x media "Winter Sun".**

(4) All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera Berberis, Mahoberberis, and Mahonia, and seedlings from rust-susceptible species and varieties of the genera Mahoberberis and Mahonia, except Mahonia cuttings for decorative purposes.

(5) Any other product or article not listed in this subsection which a division inspector determines presents a risk of spread of black stem rust. The division inspector shall notify the person in possession of a product or article ~~which that~~ qualifies under this subdivision that it is subject to this section.

(c) During the inspection of a nursery under IC 14-24-5, a division inspector shall examine all nursery stock to determine that the nursery stock consists only of rust-resistant varieties of the genera Berberis, Mahoberberis, and Mahonia, and that the plants are true to type. A plant ~~which that~~ does not meet the requirements of this subsection must be destroyed.

(d) If a nursery raises plants of the genera Berberis, Mahoberberis, or Mahonia from seed, the division shall conduct a visual inspection to verify that no wild or domesticated plants are growing within one-half (½) mile of the nursery. The inspection must conform to standards set forth in 7 CFR 301.38-3. A nursery ~~which that~~ does not meet the requirements of this subsection must cease raising plants of the described genera.

(e) Except as provided in subsection (g), the following articles regulated under this section are prohibited from moving interstate into or through Indiana:

(1) All Berberis seedlings and plants ~~which~~ **that** exhibit growth for less than two (2) years; rust-susceptible Berberis plants, seeds, and fruits; and other plant parts capable of propagation.

(2) Rust-susceptible Mahoberberis and Mahonia plants, seedlings, seeds, fruits, and other plant parts capable of propagation.

(f) The following articles regulated under this section may be moved interstate into or through Indiana only if accompanied by a certificate issued and attached under 7 CFR 301.38-5 and 7 CFR 301.38-7:

(1) Plants ~~which~~ **that** exhibit growth for at least two (2) years, seeds, fruits, and other plant parts capable of propagation of the genera Mahoberberis and Mahonia that are designated as rust-resistant in subsection (b)(2).

(2) Plants, seedlings, seeds, fruits, and other plant parts capable of propagation of the genera Mahoberberis and Mahonia that are designated as rust-resistant in subsection (b)(3).

(g) A regulated article not eligible for a certificate under 7 CFR 301.38-5 and 7 CFR 301.38-7 may be moved interstate into or through Indiana as authorized by a special permit issued under 7 CFR 301.38-4 by an employee of the Animal and Plant Health Inspection Service of the United States Department of Agriculture. (*Natural Resources Commission; 312 IAC 18-3-8; filed Nov 22, 1996, 3:00 p.m.: 20 IR 947; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546*)

### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on January 27, 2003 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana the Natural Resources Commission will hold a public hearing on proposed amendments that govern the standards for the control of black stem rust by adding new varieties to the list of rust-resistant Berberis, Mahoberberis, and Mahonia species. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W272 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

Michael Kiley  
Chairman  
Natural Resources Commission