

DEPARTMENT OF AGRICULTURE
PLANT INDUSTRIES SECTION

Statutory Authority: 3 Delaware Code, Section 1102 (3 Del.C. §1102)

FINAL

ORDER

803 Rules and Regulations for the Control and Supression of the White Pine Blister Rust

Persuant to the authority provided by 3 Delaware Code, Chapter 11 §1102, the Delaware Department of Agriculture (DDA) issues this Order adopting amended regulations governing the cultivation of Ribes species plants within the state. Following public notice of the proposed amended regulation, DDA makes the following findings and conclusions.

Background and Procedural History

The Delaware Department of Agriculture proposes these amended regulations in accordance with the General Assembly's mandate to enforce Chapter 11 of Title 3 of the Delaware Code and to specify the means by which citizens of the State of Delaware may cultivate plants of the genus Ribes within the state. DDA published the proposed amended regulations in the June 1, 2011 *Delaware Register of Regulations*. The public comment period remained open from June 1 to June 30, 2011. No written public comments were received. A public hearing was not held.

Findings of Fact and Conclusions

1. The public was given notice and the opportunity to provide DDA with comments in writing concerning the proposed regulation.
2. After considering the regulation amendments as proposed, the Department hereby adopts the regulation as final.
3. The effective date of this Order will be ten (10) days from the publication of this Order in the Register of Regulations on August 11, 2011.

So ordered as of July 15, 2011
Ed Kee, Secretary Delaware Department of Agriculture.

~~Rules and Regulations for the Control and Supression of the White Pine Blister Rust~~

~~It has been determined that White Pine Blister Rust, *Cronartium ribicola* Fischer, an injuriously dangerous plant disease, has been found in the State of Delaware. Since this disease is capable of killing or seriously damaging valuable white pine trees, by virtue of authority vested in me by Delaware Code, Title 3, Chapter 11, Section 1101, I hereby promulgate the following rules and regulations:~~

~~SECTION I~~

~~The entire State is hereby declared a White Pine Blister Rust Control Area.~~

~~SECTION II~~

~~1. Since it is an established fact that this disease requires alternate host plants of the Genus Ribes, (gooseberries and currants), in order to perpetrate itself and spread from one white pine tree to another, and that the white pines are of greater value to the State than are plants of the Genus, the importation of plants, or parts thereof, of any Ribes species into the State of Delaware is prohibited except as hereinafter provided.~~

~~2. The propagation and transportation of any plants of any plants of any plants of the Genus Ribes within the State of Delaware is prohibited except as hereinafter provided.~~

~~3. The importation, propagation and transportation of plants of the Genus Ribes will be permitted in that portion of the State lying south of the Chesapeake --- Delaware Canal provided a permit authorizing shipment into this area and planting and propagation within the area is obtained from the office of the State Plant Pathologist and provided that other requirements prescribed by the State Plant Pathologist as deemed necessary are satisfied.~~

~~4. Plants may be brought into the State of Delaware while dormant and packaged for reshipment while dormant provided the plants are not planted, grown, or propagated in the State during the interim except as provided for in these rules and regulations and provided the plants are not sold for planting or propagating within the prohibited area of the State~~

except as provided for in the following paragraph:

5. ~~Plants to be used for experimental, educational, or scientific purposes on such conditions are under such safeguards as may be prescribed by the State Plant Pathologist are excepted from foregoing paragraph of this section.~~

6. ~~Any plants found to have been transported or propagated in violation of these regulations shall be destroyed, according to law, by this Department or its authorized agents in addition to such penalties as may be provided by law.~~

7. ~~Any plants of the Genus Ribes now growing within the State may be destroyed, according to law, where in the opinion of the State Plant Pathologist they are a definite and immediate hazard to valuable White Pine trees.~~

SECTION III

~~The State Department of Agriculture authorized its duly appointed agents to cooperate with other agencies of the State of Delaware, counties or municipalities of the State of Delaware, corporations, individuals, or Federal agencies in carrying out the purposes of these rules and regulations.~~

SECTION IV

~~These rules and regulations shall take effect the fifth day of April 1972.~~

~~APPROVED This 5th day of April, 1972~~

~~Secretary, Department of Agriculture~~

803 Rules and Regulations for the Control and Suppression of the White Pine Blister Rust

1.0 Authority

These regulations are promulgated pursuant to the authority of Section 1102 of Title 3 of the Delaware Code.

2.0 Purpose

2.1 It is an established fact that White Pine Blister Rust requires alternate host plants of the genus *Ribes* to perpetuate itself and spread from one white pine tree to another, and that White Pine trees are valued as a landscape and ornamental tree. Therefore, the importation and cultivation of *Ribes* species is prohibited except as outlined in this regulation.

2.2 These regulations govern the permitting process and cultivation of plants of the genus *Ribes* within the State of Delaware. The Plant Industries Administrator or her or his designee shall have the authority to administer these regulations and shall be solely responsible for making the determinations required herein. These regulations have been developed to allow, as a permitted activity, the cultivation of *Ribes* species in a way that intends to minimize the potential for an outbreak of White Pine Blister Rust, *Cronartium ribicola*.

3.0 Definitions

"Department" means the State of Delaware Department of Agriculture and includes, but is not limited to, its officers, inspectors, employees, agents, or representatives.

"Person" means any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons, and every officer, agent, or employee thereof.

"Plant" refers to all plant parts, including whole plants, roots, scions, seeds and/or cuttings.

4.0 Quarantine

4.1 No person shall possess or transport the plants *Ribes aurium* (golden currant) or *Ribes nigrum* (black currant) within the State of Delaware. No permits shall be issued for the plants *Ribes aurium* or *Ribes nigrum*.

4.2 No person shall possess or transport plants of the genus *Ribes* sp. without a valid permit from the Department of Agriculture.

5.0 Permitted Activities

5.1 A permit authorizing shipment, planting and propagation within a specified area may be obtained from the Delaware Department of Agriculture, Plant Industries for *Ribes* sp as specified in Section 4.0 of this regulation.

5.2 The permit must include the following information:

5.2.1 name, address, and telephone number of person applying for the permit

- 5.2.2 number of plants to be grown or imported during permit period, listed by cultivar
- 5.2.3 detailed map showing where *Ribes* cultivars will be grown during the permit period.

5.3 Conditions for the permit are as follows:

- 5.3.1 the permit shall expire five years from the date of issuance
- 5.3.2 at the end of the permit period, the permittee shall remove and destroy all permitted plants, unless the permit is amended and approved by the Department.
- 5.3.3 If any additional *Ribes* plants are received by the permittee during this period, the permittee shall notify the Department in writing, and include variety information and location of plants.
- 5.3.4 the permit may be revoked at any time, if the Department determines that the permittee did not follow permit conditions, if plants appear to be a risk of spread of white pine blister rust, or if white pine blister rust is discovered near the permitted location.

5.4 The application is not valid as a permit, unless signed by an authorized Department official.

6.0 Inspections

6.1 Inspections by the Department of Agriculture shall proceed as follows:

- 6.1.1 the permittee must allow Department access to site where the plants are grown.
- 6.1.2 the Department may inspect plants at least once each year during the permit period to ensure freedom from white pine blister rust disease.
- 6.1.3 If, upon inspection, white pine blister rust is found on the *Ribes* plants, the Department will issue a Control or Destruction order, in accordance with Title 3, Chapter 11, and at the permittee's expense.

6.2 Plants used for experimental, educational or scientific purposes are not exempted from these regulations.

7.0 Violations

Any *Ribes* species plants found to have been transported or propagated in violation of these regulations shall be destroyed at the owner's expense by the Department of Agriculture, and the owner assessed a civil penalty, in accordance with §1109(e).

15 DE Reg. 185 (08/01/11) (Final)