

Colorado Department of Agriculture

Plant Industry Division

Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Nursery Act

8 CCR 1203-5

Pursuant to the provisions and requirements of the Colorado Nursery Act to regulate the sale and distribution of nursery stock, and by authority of Title 35, Article 26, Section 111, CRS 1973, the following rules and regulations are hereby promulgated:

26-1.0 DEFINITIONS

- 26-1.1 "Balled and burlapped stock" means that nursery stock which has been removed from the growing site with a ball of soil, containing the root system, left intact and encased in burlap or other similar material to hold the soil in place, and shall also include that nursery stock which has been removed from the growing site by a mechanical spade or other machine with a ball of soil, containing the root system, left intact but not necessarily encased in burlap or other similar material.
- 26-1.2 "Balled and potted stock" means that nursery stock which has been removed from the growing site with a ball of soil, containing the root system, left intact and placed in a container.
- 26-1.3 "Bare root stock" means that nursery stock which has been removed from the growing site with the root system substantially free of soil.
- 26-1.4 "Container grown stock" means that nursery stock which has been planted in a container with the root system in soil, or other potting mixture capable of sustaining normal plant growth, and which has become established in the container and exhibits a well-rooted condition as evidenced by the soil ball remaining intact when removed from said container.
- 26-1.5 "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight.
- 26-1.6 "Packaged stock" means that bare root nursery stock packed with the roots in peat, shingletow, or other moisture-retaining material encased in plastic film or other material designed to hold the moisture-retaining material in place.
- 26-1.7 "Plantable container" means a container which, when planted in the soil, will allow root penetration within one growing season.
- 26-1.8 "Potted stock" means that nursery stock which has been planted in a container with the roots in soil or other potting mixture capable of sustaining normal plant growth, which has not become established as described in 26-1.4 of these definitions.
- 26-1.9 "Primary bud" means the most vigorous bud at a node.
- 26-1.10 "Prohibited weeds in turfgrass sod" means the following plant species except when any of these species is labeled for sale purposes in accordance with Section 35-26-104 (3), CRS 1973, as amended, and 26-4.2 of these rules and regulations:

1. Bentgrass (Agrostis spp. - except in pure stands)
2. Bluegrass, rough (Poa trivialis)
3. Quackgrass (Agropyron repens)

26-1.11 "Weeds" means any plant species other than the species labeled in accordance with Section 35-26-104 (1), CRS 1973, and 26-4.2 of these rules and regulations.

26-1.12 "Bench packed stock" means that nursery stock with the roots packed in a growing medium mixture to form a ball, and encased in burlap or other similar material to hold the growing medium in place.

26-1.13 "Blend" means a combination of varieties of the same species of turfgrass in any percentages.

26-1.14 "Mixture" means a combination of two or more different species (kinds) of turfgrasses.

26-1.15 "Named blend or mixture" means the sales name which has been given to a particular blend or mixture by the grower. This sales name shall identify the grower and may or may not disclose the varieties or kinds or percentages of each in the blend or mixture.

26-1.16 "Sell or offer for sale" and "sale" mean, for the purposes of the Colorado Nursery Act and these rules and regulations, all times in which the person engaged in the business of selling nursery stock has custody or control of the nursery stock, including those acts leading to the transfer, or the transfer of the nursery stock for consideration either in money or its equivalent. For the purposes of the Colorado Nursery Act and these rules and regulations, the transfer shall not be deemed to have occurred until such time that the person engaged in the business of selling nursery stock ceases to have custody or control of the nursery stock.

26-1.17 "In-ground fabric bag-grown stock" means that nursery stock which has been planted in a fabric bag with the root system in soil, or other potting mixture capable of sustaining normal plant growth; which, in turn, has been field planted while in the bag; and which has become established in the bag and exhibits a well-rooted condition, as evidenced by the soil ball remaining intact when removed from the bag.

26-2.0 GRADING OF NURSERY STOCK

26-2.1 DECIDUOUS TREES

HEIGHT MEASUREMENT

Height shall be given in single foot units up to 6 ft.; example: 5–6 ft. Over 6 ft. height shall be given in double foot units; example: 6–8 ft., 12–14 ft.

CALIPER MEASUREMENT

Caliper of the trunk shall be taken 6 inches above the ground level up to and including 4 inch caliper size and 12 inches above ground level for the larger sizes. Caliper shall be the determining measurement in grading.

HEIGHT RELATIONSHIP TO CALIPER

Height measurement should be expressed as approved height range. The table in Type 1 shows the approved height range and also the maximum heights permitted. The grades specified are for minimum heights only, for general varieties.

Type 1. Standard Shade Trees

The height relationship to caliper will for most standard shade trees be as follows:

<u>Caliper</u>	<u>Height Range</u>	<u>Maximum Height</u>
1/2 to 3/4 in.	5 to 6 ft.	8 ft.
3/4 to 1 in.	6 to 8 ft.	10 ft.
1 to 1 1/4 in.	7 to 9 ft.	11 ft.
1 1/4 to 1 1/2 in.	8 to 10 ft.	12 ft.
1 1/2 to 1 3/4 in.	10 to 12 ft.	14 ft.
1 3/4 to 2 in.	10 to 12 ft.	14 ft.
2 to 2 1/2 in.	12 to 14 ft.	16 ft.
2 1/2 to 3 in.	12 to 14 ft.	16 ft.
3 to 3 1/2 in.	14 to 16 ft.	18 ft.
3 1/2 to 4 in.	14 to 16 ft.	18 ft.
4 to 5 in.	16 to 18 ft.	22 ft.
5 to 6 in.	18 ft. and up	26 ft.

Type 2. Slower Growing Shade Trees

Trees of slower growth which will not usually attain the height measurement in relation to caliper as in Type 1. The height shall, however, be not less than two-thirds the height relationship given for Type 1.

Type 3. Small Trees

This is a broad group including small trees as well as “standard” forms of plants which may be grown as a clump or shrub. Height shall be the governing measurement. For single stem plants the minimum relationship of caliper and branching will usually be as follows:

2 to 3 ft.	5/16 in. caliper	3 or more branches
3 to 4 ft.	7/16 in. caliper	4 or more branches
4 to 5 ft.	9/16 in. caliper	5 or more branches
5 to 6 ft.	11/16 in. caliper	6 or more branches
6 to 8 ft.	7/8 in. caliper	6 or more branches

ROOT SPREAD - BARE ROOT NURSERY GROWN

All bare root trees shall have a heavy fibrous root system which has been developed by proper cultural treatment, transplanting and root pruning. The following table represents the minimum root spread for nursery grown shade trees:

<u>Caliper</u>	<u>Height Range</u>	<u>Min. Root Spread</u>
1/2 to 3/4 in.	5 to 6 ft.	12 in.
3/4 to 1 in.	6 to 8 ft.	16 in.
1 to 1 1/4 in.	7 to 9 ft.	18 in.
1 1/4 to 1 1/2 in.	8 to 10 ft.	20 in.
1 1/2 to 1 3/4 in.	10 to 12 ft.	22 in.
1 3/4 to 2 in.	10 to 12 ft.	24 in.
2 to 2 1/2 in.	12 to 14 ft.	28 in.
2 1/2 to 3 in.	12 to 14 ft.	32 in.
3 to 3 1/2 in.	14 to 16 ft.	38 in.

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ROOT SPREAD - BARE ROOT COLLECTED

Trees collected from native stands or established plantings must be so designated. The spread of roots, bare root trees, shall be 1/3 greater than the spread of roots, bare root nursery grown, as tabulated above.

26-2.2 DECIDUOUS SHRUBS

HEIGHT MEASUREMENT

Dwarf and Semi-dwarf Shrubs: State height in inches up to 24 inches, usually in 3 inch series; example: 3–6 in., 6–9 in. Larger than 24 inches state height in feet with 1/2 foot series; example: 2 to 2 1/2 ft., 2 1/2 to 3 ft.

Strong Growing Shrubs: Grade in a 6 inch series up to 24 inches; example: 12 to 18 in.; over 24 inches by single feet up to 6 feet; then in double feet above 6 feet; example: 8–10 ft.

DEFINITION OF CANE AND CLUMP

A cane shall be considered a primary stem which starts from the ground or close to the ground at a point not higher than one-fourth the height of the plant.

A clump indicates a plant with at least double the number of canes required for standard material.

ROOT SPREAD - BARE ROOT NURSERY GROWN

Roots of deciduous shrubs shall be well branched and fibrous and bare root shrubs shall have a minimum root spread as follows:

Size of Plant -	18 to 24 in.	2 – 3 ft.	3 – 4 ft.	4 – 5 ft.	5 – 6 ft.	6 – 8 ft.
Min Root Spread -	10 in.	11 in.	14 in.	16 in.	18 in.	20 in.

ROOT SPREAD - BARE ROOT COLLECTED

Shrubs collected from native stands or established plantings must be so designated. The spread of roots, bare root collected, shall be 1/3 greater than the spread of roots of nursery grown shrubs as tabulated above.

Type 1 - Shrubs: Dwarf and Semi-dwarf

12 – 15 in.	shrubs shall have not less than 4 canes,	12 in. and up
15 – 18 in.	shrubs shall have not less than 4 canes,	15 in. and up
18 – 24 in.	shrubs shall have not less than 5 canes,	18 in. and up
2 - 2 ½ ft.	shrubs shall have not less than 6 canes,	2 ft. and up
2 ½ - 3 ft.	shrubs shall have not less than 7 canes,	2 ½ ft. and up

Examples:

Berberis thunbergi minor	Ribes alpinum
Philadelphus coronaries aureus	Rosa rugosa
Potentilla fruticosa	Spiraea bumalda “Anthony Waterer”

Type 2

1 ½ - 2 ft.	shrubs shall have not less than 3 canes,	1 ½ ft. and up
2 – 3 ft.	shrubs shall have not less than 4 canes,	2 ft. and up

- 3 – 4 ft. shrubs shall have not less than 5 canes, 3 ft. and up
- 4 – 5 ft. shrubs shall have not less than 6 canes, 4 ft. and up

Examples:

Cornus alba, sibirica, racemosa, stolonifera	Ligustrum ibota, vulgare
Kolkwitzia amabilis	Philadelphus lemoinei
Ligustrum amurense, ibolium	Rosa multiflora, setigera
	Spiraea, tall varieties

Type 3

- 1 ½ ft. shrubs shall have not less than 3 canes, 1 ½ ft. and up
- 2 – 3 ft. shrubs shall have not less than 3 canes, 2 ft. and up
- 3 – 4 ft. shrubs shall have not less than 4 canes, 3 ft. and up
- 4 – 5 ft. shrubs shall have not less than 5 canes, 4 ft. and up

Examples:

Acanthopanax sieboldianus	Lonicera, bush form
Alnus rugosa	Philadelphus, all standard var.
Amelanchier	Prunus triloba, bush form
Aronia arbutifolia, melanocarpa	Prunus cistena
Cornus sanguinea	Rhamnus cathartica, frangula
Corylus americana	Rosa blanda
Cotoneaster acutifolia	Sambucus canadensis cutleaf Gold
Euonymus americana	Sorbaria aitchisoni, arborea, sorbifolia
Forsythia, all varieties	Symphoricarpos chennaulti, mollis, occidentalis, albus, orbiculatus
Hamamelis	Syringa chinensis, amurensis, japonica, josikea, persica, villosa
Hibiscus, bush form	Viburnum dentatum, lantana, molle, opulus, tomentosum, trilobum, cassinoides
Hydrangea arborescens grandiflora "Snowhill"	
Hydrangea paniculata grandiflora PG	
Kerria japonica	
Ligustrum obtusifolium regelainum	

Type 4

- 1 ½ - 2 t. shrubs shall have not less than 2 canes, 1 ½ ft. and up
- 2 – 3 ft. shrubs shall have not less than 2 canes, 2 ft. and up
- 3 – 4 ft. shrubs shall have not less than 3 canes, 3 ft. and up
- 4 – 5 ft. shrubs shall have not less than 4 canes, 4 ft. and up

Examples:

Amorpha fruticosa	Euonymus alatus, atropurpureus, europaeus
Baccharis halimifolia	Lespedeza bicolor
Caragana arborescens	Rhamnus cathartica, frangula
Chioanthus virginica	Syringa vulgaris, vulgaris alba
Colutea arborescens	Tamarix
Cotinus americanus, coggygria	Viburnum lentago
Cornus alternifolia, mas	
Eleagnus angustifolia, commutata, umbellata	

Type 5

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1 ½ ft.	shrubs with 1 or more canes	1 ½ ft. and up in height	5/16 in. cal.
2 – 3 ft.	shrubs with 1 or more canes	2 ft. and up in height	3/8 in. cal.
3 – 4 ft.	shrubs with 1 or more canes	3 ft. and up in height	½ in. cal.
4 – 5 ft.	shrubs with 1 or more canes	4 ft. and up in height	5/8 in. cal.
5 – 6 ft.	shrubs with 1 or more canes	5 ft. and up in height	7/8 in. cal.

Examples:

Rhus glabra, glabra laciniata, typhina, typhina laciniata

Type 6 - Barberry

12 – 15 in.	Berberis thunbergi,	3 canes or more,	12 in. and up
15 – 18 in.	Berberis thunbergi,	3 canes or more,	15 in. and up
1 ½ - 2 ft.	Berberis thunbergi,	4 canes or more,	1 ½ ft. and up
2 – 2 ½ ft.	Berberis thunbergi,	4 canes or more,	2 ft. and up
2 ½ - 3 ft.	Berberis thunbergi,	5 canes or more,	2 ½ ft. and up
3 ft.	Berberis thunbergi,	6 canes or more,	3 ft. and up

Type 7 - Privet (Hedging)

1 ½ - 2 ft.	Ligustrum in variety shall have 3 canes or more	1 ½ ft. and up
2 – 3 ft.	Ligustrum in variety shall have 4 canes or more	2 ft. and up
3 – 4 ft.	Ligustrum in variety shall have 5 canes or more	3 ft. and up
4 – 5 ft.	Ligustrum in variety shall have 6 canes or more	4 ft. and up

Note: For other species see Type 2 and 3.

26-2.3 EVERGREENS

QUALITY DEFINITIONS

The quality of evergreens offered is assumed to be normal for the species of variety unless otherwise designated as:

Specimen. (Spec.) This designation may be used to indicate exceptionally heavy, well shaped plants and is usually applied to the larger commercial sizes and plants which have been cut back and trimmed to form a perfectly symmetrical, tightly knit plant.

Collected. (Coll.) Natural seedling plants dug from native stands or forest plantings must be so designated.

EVERGREENS - CONIFERS

Type 1 - Spreading

Measurement designates spread (height not considered). Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches up to 4 feet. Use 1 foot intervals from 4 feet up.

Measurement shall be average of plant and not the greatest diameter. Plants properly trimmed and transplanted should measure the same in any direction. If a plant is uneven, for example, 15 inches the widest way and 9 the narrowest, it should be classified as 12 inch stock.

Examples:

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Juniperus horizontalis and varieties.

Type 2 - Semi-Spreading

Measurement designates spread. Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches up to 4 feet. Use 1 foot intervals from 4 feet up. Measurement shall be average as in Type 1.

Height of material will be at least one half the spread. Above 3 feet the height will be less than the spread, varying somewhat according to the natural growth of the particular species and method of handling.

<u>Spread</u>	<u>Height</u>
6 to 9 in. up to 3 ft.	same as spread
3 to 4 ft.	2 ½ to 3 ½ ft.
4 to 5 ft.	3 to 4 ft.

Examples:

Juniperus chinensis "Pfitzer", sabina "Tammy"

Type 3 - Globe or Dwarf

Measurement designates height. Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches up to 4 feet. Use 1 foot intervals from 4 feet up.

<u>Height</u>	<u>Spread</u>
6 to 9 in.	Up to 12 in. min. spread, same
12 to 15 in.	min. spread, 10 in.
15 to 18 in.	min. spread, 12 in.
18 to 24 in.	min. spread, 15 in.
2 to 2 ½ ft.	min. spread, 18 in.
2 ½ to 3 ft.	min. spread, 21 in.
3 to 3 ½ ft.	min. spread, 24 in.

Examples:

Juniperus virginiana "Globe", Picea (Dwarf ball shaped types), Juniperus squamata "Meyer"

Type 4 - Cone (Pyramidal)

Measurement designates height. Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches up to 5 feet. Use 1 foot intervals from 5 to 8 feet. Use 2 foot intervals from 8 feet up.

In determining height, measurement shall begin at the soil line and end at a point midway between the uppermost whorl of branches and the tip of the leader.

<u>Height</u>	<u>Spread</u>
12 to 15 in.	8 to 12 in.
15 to 18 in.	9 to 15 in.
18 to 24 in.	12 to 18 in.
2 to 2 ½ ft.	15 to 21 in.
2 ½ to 3 ft.	18 to 24 in.
3 to 4 ft.	21 to 30 in.
4 to 5 ft.	2 ½ to 3 ft.
5 to 6 ft.	3 to 4 ft.

Examples:

Abies, Picea, Pseudotsuga menzesii, Pinus (except dwarf types)

Type 5 - Broad Upright

Measurement designates height. Use same intervals as in Type 4. This group includes all the broader, upright growing evergreens which develop a straight-sided form with many up-right branches or "leaders."

<u>Height</u>	<u>Spread</u>
12 to 15 in.	8 to 12 in.
15 to 18 in.	9 to 15 in.
18 to 24 in.	12 to 18 in.
2 to 2 ½ ft.	15 to 21 in.
2 ½ to 3 ft.	18 to 24 in.
3 to 4 ft.	21 to 30 in.
4 to 5 ft.	2 ½ to 3 ft.
5 to 6 ft.	3 to 4 ft.

Examples:

Taxus media "Hicks", "Hatfield"

Type 6 - Columnar

Measurement designates height. Use same intervals as in Type 4. This group includes all the upright growing evergreens which naturally develop a straight-sided form or one that tapers only slightly from the ground to a point more than half the height.

<u>Height</u>	<u>Spread</u>
12 to 15 in.	3 to 6 in.
15 to 18 in.	4 to 7 in.
18 to 24 in.	5 to 8 in.
2 to 2 ½ ft.	6 to 9 in.
2 ½ to 3 ft.	7 to 10 in.
3 to 4 ft.	9 to 12 in.
4 to 5 ft.	12 to 15 in.
5 to 6 ft.	15 to 18 in.
6 to 7 ft.	18 to 21 in.
7 to 8 ft.	21 to 24 in.
8 to 10 ft.	24 to 30 in.

Examples:

Juniperus virginiana (columnar varieties)

EVERGREENS - BROADLEAF

Five general types or groups are considered separately as follows:

Type 1 - Spreading

Measurement designates spread (height not considered). Use 3 inch intervals up to 24 inches. Use 6 inch intervals from 24 inches to 4 feet. Use 1 foot intervals from 4 feet up.

Examples:

Cotoneaster horizontalis, *Mahonia repens*

Type 2 - Semi-Spreading

Measurement designates spread (height not considered). Use 3 inch intervals up to 24 inches. Use 6 inch intervals from 24 inches to 4 feet. Use 1 foot intervals from 4 feet up.

Examples:

Berberis verruculosa

Type 3 - Globe or Dwarf

Measurement designates height. Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches to 4 feet. Use 1 foot intervals from 4 feet up.

<u>Height</u>	<u>Spread</u>
6 to 9 in.	min. spread 5 in.
9 to 12 in.	min. spread 6 in.
12 to 15 in.	min. spread 7 in.
15 to 18 in.	min. spread 9 in.
18 to 24 in.	min. spread 10 in.
2 to 2 ½ ft.	min. spread 14 in.

Examples:

Mahonia aquifolium "Compact"

Type 4 - Broad Upright

Measurement designates height. Use 3 inch intervals up to 18 inches. Use 6 inch intervals from 18 inches to 3 feet. Use 1 foot intervals from 3 feet up.

<u>Height</u>	<u>Spread</u>
12 to 15 in.	min. spread 8 in.
15 to 18 in.	min. spread 10 in.
18 to 24 in.	min. spread 12 in.
2 to 2 ½ ft.	min. spread 16 in.
3 to 4 ft.	min. spread 24 in.
4 to 5 ft.	min. spread 28 in.

Examples:

Mahonia aquifolium

Type 5 - Conical

Specifications identical to Type 4. This type includes all upright growing broadleaf evergreens which naturally develop into a conical form. Well grown material will have a ratio of height to spread of 3 to 2. A greater spread is acceptable.

GENERAL

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Measurement of height shall begin where the branches start rather than at the ground, if the plant is leggy. It shall stop where the main part of the plant ends and not at the tip of a thin shoot.

26-2.4 ROSE GRADES

GENERAL

The standards specified apply only to field-grown roses when sold bare root, or individually wrapped and packaged, or in cartons.

All grades of roses must have a well-developed root system and have proportionate weight and caliper according to grade and variety. Roses shall be graded by number and caliper of canes.

As used in the grade sizes below, "strong cane" means a cane that is healthy, vigorous, and fully developed so that it is hardened-off throughout. The caliper of the cane is measured not higher than 4 inches (10 cm) from the bud union. Finished shipping length shall be not less than 6 inches (15.0 cm).

- A. Hybrid Tea, Tea, Grandiflora, Rugosa Hybrids, Hybrid Perpetuals, Moss, and climbing roses
- Grade No. 1 - At least three strong canes 5/16 inch (0.8 cm) in caliper and up, branched not higher than 3 inches (8 cm) from the bud union.
 - Grade No. 1 ½ - At least two strong canes, 5/16 inch (0.8 cm) in caliper and up, branched not higher than 3 inches (8 cm) from the bud union.
 - Grade No. 2 - At least two canes, one of which shall be a strong cane, 5/16 inch (0.8 cm) in caliper and up. The second shall be ¼ inch (0.6 cm) in caliper, branched not higher than 3 inches (8 cm) from the bud union.

Although Floribunda roses are included in the above grade standard, it should be noted that Floribunda roses in this group will normally result in the marketing of rose bushes which are, on the average, lighter for this class. Polyantha, Shrub, Landscape, and low growing Floribunda roses may be graded per Subpart B, immediately below.

- B. Polyantha, shrub, landscape, and low growing Floribunda Roses
- Grade No. 1 - At least three strong canes ¼ inch (0.6 cm) in caliper and up, branched not higher than 3 inches (8 cm) from the bud union.
 - Grade No. 1 ½ - At least two strong canes, ¼ inch (0.6 cm) in caliper and up, branched not higher than 3 inches (8 cm) from the bud union.
 - Grade No. 2 - At least two canes, one of which shall be a strong cane, ¼ inch (0.6 cm) in caliper and up.
- C. Field grown miniatures
- Large Variety:
- Grade No. 1 - At least two canes, one of which shall be ¼ inch (0.6 cm) in diameter and the other 9/32 inch (0.7 cm) in diameter or 5 canes, one of which is ¼ inch (0.6 cm) in diameter and 4 smaller, healthy canes.

- Grade No. 2 - At least two canes, one of which is ¼ inch (0.6 cm) in diameter plus one healthy cane.
- Small Variety:
- Grade No. 1 - At least two canes 9/32 inch (0.7 cm) in diameter or five smaller, healthy canes.
- Grade No. 2 - Two healthy canes.
- Root System:
- Grade No. 1 - 5 inches (13 cm) or more in length, spaced 50% or more around the shank in a balanced fashion.
- Grade No. 2 - 3 to 5 inches (8-13 cm) in length, spaced 50% or more around the shank in a balanced fashion.
- Standard Tree Rose 36 inches (91 cm):
- Grade No. 1 - Height 36 inches (91 cm) or more. The standard cane size measured at 3 inches (8 cm) below the bud union must be at least 7/16 (11 mm) in diameter. Bud development (head) must have a least two bud eyes and must be well-branched in a balanced fashion as defined in Subparts A and B immediately above and C, herein. The standard cane shall be upright and straight.
- Grade No. 1 ½ - Height 36 inches (91 cm) or more. The standard cane size measured at 3 inches (8 cm) below the bud union must be at least 7/16 inch (11 mm) in diameter. Bud development (head) must have at least two bud eyes and must be well-branched in a balanced fashion as defined in Subparts A and B immediately above and C, herein, with 70% or more head development. The standard cane shall be upright and straight.
- Grade No. 2 Substandard - All Tree Roses not meeting the No. 1 or No. 1 1/2 grades described above are defined as substandard.
- Patio Tree Rose 18 inches (50 cm)
- Grade No. 1 - Height at least 18 inches (50 cm) or more not to exceed 36 inches (91 cm). The standard size measured at 3 inches (8 cm) below the bud union must be at least 3/8 inches (10 mm) in diameter. Bud development (head) must have at least two bud eyes and must be well-branched in a balanced fashion as defined in Subparts A and B above and C, herein. The standard cane shall be upright and straight.
- Grade No. 2 Substandard - All Patio Tree Roses not meeting the No. 1 grade are defined as substandard.
- Mini-Tree Rose (Miniature Varieties)
- Grade No. 1 - Height at least 12 inches (30 cm) or more not to exceed 18 inches (46 cm). The standard size measured at 3 inches (8 cm) below the bud union must be at least 5/16 inch (8 mm) in diameter. Bud development (head) must have at least two bud eyes and must be well-branched in a balanced

Grade No. 2
Substandard -

fashion as defined in Subparts A and B above and C, herein. The standard cane shall be upright and straight. All Mini-Tree Roses not meeting the No. 1 grade are defined as substandard.

26-2.5 VINES

Type 1 - Fast Growing

The fast growing vines which normally produce a number of vigorous woody runners in one or two years shall be graded and designated as follows:

- 2 Year No. 1 - shall have heavy well branched tops with not less than 3 runners 18 inches and up and a vigorous well developed root system.
- 2 Year No. 2 - lighter grade than Number 1 but without serious defects. 3 runners 12 inches and up with a root system commensurate with the top.

Older vines shall be designated according to age, heavy or light grade, length of runners and other characteristics such as standard, grafted, potted or tubbed.

Examples:

Celastrus scandens, Lonicera, Parthenocissus quinquefolia engelmanni

Type 2 - Medium Growing

Woody vines usually starting with a single cane or runner shall be designated by age and grade, heavy or light.

- 2 Year No. 1 - shall have a heavy well branched top and a vigorous well developed root system.
- 2 Year No. 2 - lighter grade than the above without serious defects, top not as well branched. Root system must be in proportion to the top.

Older vines shall be designated according to age, heavy or light grades, length of runners, and other characteristics such as standard, grafted, potted or tubbed.

Examples:

Aristolochia, Campsis radicans, Parthenocissus tricuspidata, Euonymus radicans and varieties, Hedera helix, Vitis

Type 3 - Clump

Clump types shall be designated by age and heavy or light grade. Dormant plants may or may not have live runners. In this group a well developed root system and a healthy well developed crown are the important considerations.

Examples:

Clematis

Type 4 - Ground Covers

Dwarf vines and ground covers are to be designated by age, size of clump and length of runners and other characteristics peculiar to the particular species offered.

Examples:

Arctostaphylos, Vinca minor, Hedera helix, Euonymus radicans

GROUND COVERS - CONTAINER GROWN

Ground covers sold in pots or similar containers shall be established in the container and shall exhibit a well rooted condition. The following are suggested minimum specifications:

<u>Variety</u>	<u>Pot Size</u>	<u>Min. No. of Runners</u>	<u>Min. Length of Runners</u>
Lonicera jap. halliana	2 ¼ in.	2 to 3	4 to 6 in.
Lonicera jap. halliana	3 in.	3 to 8	6 to 8 in.
Lonicera jap. halliana	4 in.	4 to 8	8 to 12 in.
Hedera helix and baltica	2 ¼ in.	2	4 to 6 in.
Hedera helix and baltica	3 in.	3	6 to 8 in.
Hedera helix and baltica	4 in.	4	8 to 12 in.
Vinca minor	2 ¼ in.	6 to 8	4 to 6 in.
Vinca minor	3 in.	8 to 12	4 to 6 in.

Collected (Coll.) - Plants collected from the wild must be so designated.

26-2.6 FRUIT TREES

All trees shall have reasonably straight bodies according to habit of growth. All grades 5/16 and larger shall be branched, except one year Sweet Cherry, and well rooted. The 9/16 and 11/16 shall have 3 or more side branches. Caliper shall be taken two inches above the collar or bud. Height shall be taken from the collar if grafted or from the union of the bud and stock if budded.

The caliper shall govern grading, height being intended to represent average height of most varieties. Slow growing kinds may fall short of height specified. Age shall be given as 1 year, 2 year, etc.

All fruit trees are tied 11/16 - 9/16, ten per bundle; 7/16 - 5/16, twenty per bundle and have two printed labels per bundle.

Caliper (in inches) Minimum Heights

APPLE - STANDARD

11/16 to 1 in.	4 ½ ft. and up
9/16 to 11/16 in.	4 ft. and up
7/16 to 9/16 in.	3 ft. and up
5/16 to 7/16 in.	2 ft. and up

APPLE - DWARF

9/16 and up	3 ½ ft. and up
7/16 to 9/16	2 ½ ft. and up
5/16 to 7/16	2 ft. and up

APRICOT

11/16 and up	4 ft. and up
9/16 to 11/16	3 ft. and up
1/16 to 9/16	2 ½ ft. and up
5/16 to 7/16	2 ft. and up

<u>Caliper (in inches)</u>	<u>Minimum Heights</u>
CHERRY – SWEET	
11/16 and up	1 & 2 yr. 4 ½ ft. and up
9/16 to 11/16	1 & 2 yr. 4 ft. and up
7/16 to 9/16	1 & 2 yr. 3 ft. and up
5/16 to 7/16	1 & 2 yr. 2 ft. and up

CHERRY - SOUR	
11-16 and up	2 year 4 ft. and up
9/16 to 11/16	2 year 3 ½ ft. and up
7/16 to 9/16	2 year 3 ft. and up
5/16 to 7/16	2 year 2 ft. and up
11/16 and up	1 year 3 ½ ft. and up
9/16 to 11/16	1 year 3 ft. and up
7/16 to 9/16	1 year 2 ½ ft. and up
5/16 to 7/16	1 year 2 ft. and up

<u>Caliper (in inches)</u>	<u>Minimum Heights</u>
PEACH	
11/16 and up	4 ½ ft. and up
9/16 to 11/16	4 ft. and up
7/16 to 9/16	3 ft. and up
5/16 to 7/16	2 ft. and up

PEAR – STANDARD	
11/16 and up	4 ½ ft. and up
9/16 to 11/16	4 ft. and up
7/16 to 9/16	3 ft. and up
5/16 to 7/16	2 ft. and up

PEAR – DWARF	
9/16	3 ½ ft. and up
7/16	3 ft. and up
5/16	2 ft. and up

PLUM	
11/16 and up	4 ½ ft. and up
9/16 to 11/16	4 ft. and up
7/16 to 9/16	3 ft. and up
5/16 to 7/16	2 ft. and up

QUINCE	
9/16 and up	3 ½ ft. and up
7/16 to 9/16	3 ft. and up
5/16 to 7/16	2 ft. and up

ONE YEAR STANDARD

One year old fruit tree stock (apples, pears, cherries, plums, peaches, nectarines, apricot and quince) from the three West Coast states, Washington, Oregon and California, graded in 1/8 inch intervals as follows shall be accepted:

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- 1 yr. 3/4 inch and up
- 1 yr. 5/8 inch and up
- 1 yr. 1/2 inch to 5/8 inch
- 1 yr. 3/8 inch to 1/2 inch
- 1 yr. 1/4 inch to 3/8 inch

26-2.7 FRUIT TREE SEEDLINGS

CALIPER MEASUREMENT

Caliper shall be taken at the collar or ground line and grade numbers shall correspond to the following calipers:

3/8	3/8 to 7/16	tied 50 per bundle
1/4	1/4 to 3/8	tied 100 per bundle
No. 1	3/16 to 1/4	tied 100 per bundle
No. 2	1/8 to 3/16	tied 200 per bundle
No. 3	1 1/2 /16 to 2/16	tied 200 per bundle
No. 4	1/16 to 1 1/2 /16	tied 200 per bundle

Exception: Grade No. 1 "straight" apple seedlings shall be graded from 3/16 to 5/16 caliper.

SPECIAL SPECIFICATIONS

In case of seedlings with limbs there shall be at least 2 inches above the collar free of limbs for one half the circumference of the seedling.

In case of apple or pear seedlings where the root description is given as branched or straight, the following shall apply:

Branched Root - not less than 3 root branches. Point of branching shall not be more than 4 inches from the collar.

Straight Root - the root shall carry the caliper of the grade for not less than 6 inches from the collar.

In the case of cutting grown stock, the caliper shall be taken on the original cutting at the collar.

26-2.8 SMALL FRUITS

All small fruit plants must be well rooted. No injured, dwarfed or odd shaped plants shall be included in any grade.

RASPBERRIES

- Grade No. 1 - sucker and root cutting plants, and also tip plants, shall be graded 3/16 inch and up in caliper at the collar; sucker plants shall have 10 inches or more of live top; tip plants shall have 8 inches or more of live top; plants to be tied 25 per bundle.
- Grade No. 2 - sucker and root cutting plants, and also tip plants, shall be graded 2/16 inch and up in caliper at the collar; sucker and root cutting plants to have 8 inches or more of live top; tip plants, 6 inches or more of live top. Tied 25 per bundle.

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TRANSPLANTED RASPBERRIES

- Grade No. 1 - all transplanted raspberries shall caliper 1/4 inch and up at the collar and have 15 inches or more of live top. Tied 25 per bundle.
- Grade No. 2 - transplanted raspberries shall caliper 3/16 inch and up at the collar and have 12 inches or more of live top. Tied 25 per bundle.

DEWBERRIES, BLACKBERRIES, BOYSENBERRIES, YOUNGBERRIES

- Grade No. 1 - root cuttings shall caliper 2/16 inch and sucker plants shall caliper 3/16 inch and up at the collar and have 12 inches or more of live top. Tied 50 per bundle.
- Grade No. 2 - root cuttings shall caliper 3/32 inch and sucker plants shall caliper 2/16 inch and up at the collar and have 8 inches or more of live top. Tied 50 per bundle.

TRANSPLANTED BLACKBERRIES

- Grade No. 1 - shall caliper 1/4 inch and up at the collar and have 12 inches or more of live top. Tied 25 per bundle.

CURRENTS

- Grade 2 Yr. No. 1 - 12 inches and up in height with 2 or more branches. Tied 25 per bundle.
- Grade 1 Yr. No. 1 - 9 inches and up in height; if single cane plants, to be 12 inches high. Tied 50 per bundle.
- Grade 2 Yr. No. 2 - same specifications as 1 Yr. No. 1.

BLUEBERRIES

All measurements to indicate overall height of plant from crown to tip. All to be well rooted and well branched in proportion to height.

- 1 year rooted cuttings 3 to 6 in.
- 2 year No. 1 9 to 12 in.
- 2 year No. 2 6 to 9 in.
- 3 year No. 1 12 to 18 in.
- 4 year No. 1 18 to 24 in.

GOOSEBERRIES

- Grade 2 Yr. No. 1 - shall measure 12 inches or more in height with 3 or more canes, or equivalent side branches, and shall be tied 25 per bundle.
- Grade 1 Yr. No. 1 - shall measure 8 inches or more in height with 2 or more canes, or equivalent side branches, and shall be tied 50 per bundle.
- Grade 2 Yr. No. 2 - same specifications as 1 Yr. No. 1.

GRAPE VINES

Grading of grape vines is based mainly on the root system.

- Grade 2 Yr. No. 1 - the lighter growing varieties shall have 12 inches or more of live top; stronger growing varieties shall be proportionately larger. Tied 50 per bundle.
- Grade 1 Yr. No. 1 - lightest growers shall have 6 inches or more of live top; stronger growers shall be proportionately larger. Tied 100 per bundle.
- Grade 2 Yr. No. 2 - same specifications as 1 Yr. No. 1.

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STRAWBERRY PLANTS

There shall be at least 10 main roots, not less than 3 inches long, and a minimum crown diameter of 5/16 inch measured at the base.

26-2.9 LINING OUT STOCK

GENERAL

Lining out stock shall include all plant material coming from propagating houses, beds or frames and young material of suitable size to plant out in nursery rows.

DESIGNATION

Age—Shall be given by number of years since propagated or in the case of seedlings, since growth started.

Transplanted—The number of times transplanted to be represented by using for each transplanting the letter "T".

Seedling—Stock to be represented by the letter "S".

Cuttings—To be represented by the letter "C".

Grafted—Stock to be represented by the letter "G".

Size—Shall be given in accordance with the intervals recommended for each plant class.

Examples:

Koster Spruce G, 6-8" 4 Yr. TT means Koster Spruce graft, 6 to 8 inches high, 4 years old and twice transplanted.

SIZE DESIGNATION

In grading use 2" intervals up to 12"; 3" intervals up to 24"; 6" intervals for larger sizes.

EVERGREEN LINING OUT STOCK

Evergreens shall be transplanted frequently enough to create a good root system, which will insure a minimum of transplanting loss, and to give the top room enough to start the branch framework properly, making a well-shaped specimen when placed in the nursery stock row.

26-2.10 SEEDLING TREES AND SHRUBS

DECIDUOUS OR HARDWOODS

Caliper measurements are taken at root collar or ground line.

<u>Caliper</u>	<u>Min. Height</u>	<u>Min Root Length</u>
3 ½/16 in. and up	12 in.	10 in.
3/16 in. to 3 ½/16 in.	10 in.	10 in.
2 ½/16 in. to 3/16 in.	8 in.	8 in.

<u>Caliper</u>	<u>Min. Height</u>	<u>Min Root Length</u>
1 ½/16 in. to 2 ½/16 in.	6 in.	8 in.

Tops or roots will not be trimmed unless specified by grower or requested by purchaser.

When height is important measurements are taken from root collar or ground line.

<u>Height</u>	<u>Min. Caliper</u>	<u>Min. Root Length</u>
24 to 36 in.	3 ½/16 in.	12 in.
18 to 24 in.	3/16 in.	10 in.
12 to 18 in.	2 ½/16 in.	10 in.
6 to 12 in.	1 1/2 /16 in.	8 in.

Suggested for commercial nurseries furnishing or purchasing stock for the retail trade, and still comply with demands for calipered stock.

It shall be understood that when heights are to govern, caliper specification is minimum and when caliper is to govern, the height specification is minimum.

CONIFERS OR EVERGREENS

<u>Height</u>	<u>Min. Caliper</u>
12 to 15 in.	3/16 in.
9 to 12 in.	2 ½/16 in.
6 to 9 in.	1 ½/16 in.

Age is not important when height or caliper is specified. However it may be used in listings or when demanded by purchaser.

KEY for use in indicating seedling, root pruned or transplants:

S—seedling

RP—root pruned (shall not be root pruned deeper than 6 inches when applying to conifers)

T—one T for each time transplanted

GENERAL

All plants are to have well developed root systems, to be free of insects and diseases as well as mechanical injuries, and in all respects be suitable for field planting. All conifers must have dormant buds and secondary needles.

26-2.11 BALLING AND BURLAPPING SPECIFICATIONS

BALL DIAMETERS FOR NURSERY GROWN STOCK

Balled and burlapped nursery stock which has been nursery grown shall meet the minimum ball diameter requirements stated in the following tables. Ball diameters shall be measured six inches below the original soil line on stock dug by a mechanical spade or other machine.

Deciduous Shade Trees (e.g. silver maple, bur oak, white oak, small-leaved linden)	
<u>Caliper</u>	<u>Min. Ball Diameter</u>
½ to ¾ in.	12 in.

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¾ to 1 in.	14 in.
1 to 1 ¼ in.	16 in.
1 ¼ to 1 ½ in.	18 in.
1 ½ to 1 ¾ in.	20 in.
1 ¾ to 2 in.	22 in.
2 to 2 ½ in.	24 in.
2 ½ to 3 in.	28 in.
3 to 3 ½ in.	32 in.
3 ½ to 4 in.	38 in.
4 to 4 ½ in.	42 in.
4 ½ to 5 in.	48 in.
5 to 5 ½ in.	54 in.
5 ½ to 6 in.	57 in.
6 to 7 in.	60 in.
7 to 8 in.	70 in.
8 to 9 in.	80 in.

Small Upright and Small Spreading Deciduous Trees (e.g. redbud, hawthorn, Japanese maple, glossy privet)

<u>Height</u>	<u>Min. Ball Diameter</u>
2 to 3 ft.	10 in.
3 to 4 ft.	12 in.
4 to 5 ft.	14 in.
5 to 6 ft.	16 in.
¾ to 1 in.	16 in.
1 to 1 ¼ in.	18 in.
1 ¼ to 1 ½ in.	19 in.
1 ½ to 1 ¾ in.	20 in.
1 ¾ to 2 in.	22 in.
2 to 2 ½ in.	24 in.
2 ½ to 3 in.	28 in.
3 to 3 ½ in.	32 in.
3 ½ to 4 in.	38 in.
4 to 4 ½ in.	42 in.
4 ½ to 5 in.	48 in.
5 to 5 ½ in.	54 in.
5 ½ to 6 in.	57 in.
6 to 7 in.	60 in.
7 to 8 in.	70 in.
8 to 9 in.	80 in.

Spreading, Semi-Spreading, Broad Spreading, Globe, and Compact Upright Coniferous Evergreens (e.g. creeping juniper, mugo pine)

<u>Height</u>	<u>Min. Ball Diameter</u>
9 to 12 in.	8 in.
12 to 15 in.	10 in.
15 to 18 in.	12 in.
18 to 24 in.	14 in.
24 to 30 in.	16 in.
30 to 36 in.	18 in.
36 to 42 in.	24 in.
42 to 48 in.	26 in.
4 to 5 ft.	28 in.

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5 to 6 ft.	36 in.
6 to 7 ft.	40 in.
7 to 8 ft.	46 in.
8 to 9 ft.	54 in.

Pyramidal, Broad Upright Coniferous Evergreens (e.g. pine, spruce, fir)

The minimum ball diameter for pyramidal, broad upright coniferous evergreens shall be determined by measuring both the height and caliper of the tree and determining the minimum ball diameter from each of the following two tables. The required minimum ball diameter for the tree shall be the larger of these two diameters.

<u>Height</u>	<u>Min. Ball Diameter</u>
1 ½ to 2 ft.	12 in.
2 to 3 ft.	14 in.
3 to 4 ft.	16 in.
4 to 5 ft.	18 in.
5 to 6 ft.	20 in.
6 to 7 ft.	24 in.
7 to 8 ft.	26 in.
8 to 9 ft.	28 in.
9 to 10 ft.	32 in.
10 to 12 ft.	36 in.
12 to 14 ft.	40 in.
14 to 16 ft.	54 in.
16 to 18 ft.	70 in.
18 to 20 ft.	84 in.

<u>Caliper</u>	<u>Min. Ball Diameter</u>
½ to ¾ in.	12 in.
¾ to 1 in.	14 in.
1 to 1 ¼ in.	16 in.
1 ¼ to 1 ½ in.	18 in.
1 ½ to 1 ¾ in.	20 in.
1 ¾ to 2 in.	24 in.
2 to 2 ½ in.	26 in.
2 ½ to 3 in.	28 in.
3 to 3 ½ in.	32 in.
3 ½ to 4 in.	36 in.
4 to 4 ½ in.	42 in.
4 ½ to 5 in.	48 in.
5 to 5 ½ in.	54 in.
5 ½ to 6 in.	57 in.
6 to 7 in.	60 in.
7 to 8 in.	70 in.
8 to 9 in.	80 in.

Columnar Coniferous Evergreens * (e.g. upright junipers)

<u>Height/Caliper</u>	<u>Min. Ball Diameter</u>
12 to 15 in. – height	8 in.
15 to 18 in. – height	10 in.
18 to 24 in. – height	12 in.
24 to 30 in. – height	14 in.

30 to 36 in. - height	16 in.
3 to 4 ft. – height	18 in.
4 to 5 ft. – height	20 in.
5 to 6 ft. – height	22 in.
6 to 7 ft. – height	24 in.
7 to 8 ft. – height	26 in.
8 to 9 ft. height	28 in.
>9 ft. – height & 3 to 3 ½ in. – caliper	32 in.
3 ½ to 4 in. – caliper	34 in.
4 to 4 ½ in. – caliper	38 in.
4 ½ to 5 in. – caliper	42 in.
5 to 5 ½ in. – caliper	48 in.
5 ½ to 6 in. – caliper	54 in.
6 to 7 in. – caliper	60 in.
7 to 8 in. – caliper	72 in.
8 to 9 in. – caliper	84 in.
9 to 10 in. – caliper	90 in.

*rapid growing varieties should have root balls one size smaller

Spreading, semi-spreading, broad spreading, compact upright, and globe Broadleaf Evergreens (e.g. cotoneaster)

<u>Height</u>	<u>Min. Ball Diameter</u>
9 to 12 in.	8 in.
12 to 15 in.	10 in.
15 to 18 in.	12 in.
18 to 24 in.	14 in.
24 to 30 in.	16 in.
30 to 36 in.	18 in.
36 to 42 in.	24 in.
42 to 48 in.	26 in.
4 to 5 ft.	28 in.
5 to 6 ft.	36 in.
6 to 7 ft.	40 in.
7 to 8 ft.	46 in.
8 to 9 ft.	52 in.

Broad Upright, Cone Broadleaf Evergreens (e.g. mockorange)

<u>Height/Caliper</u>	<u>Min. Ball Diameter</u>
12 to 15 in. - height	8 in.
15 to 18 in. – height	10 in.
18 to 24 in. – height	12 in.
24 to 30 in. – height	14 in.
30 to 36 in. - height	16 in.
3 to 4 ft. - height	18 in.
4 to 5 ft. – height	20 in.
5 to 6 ft. – height	22 in.
6 to 7 ft. – height	24 in.
7 to 8 ft. – height	26 in.
8 to 9 ft. - height	28 in.
9 ft. – height & 3 to 3 ½ in. – caliper	32 in.
3 ½ to 4 in. - caliper	34 in.
4 to 4/12 in. – caliper	38 in.

4 ½ to 5 in. – caliper	42 in.
5 to 5 ½ in. – caliper	48 in.
5 ½ to 6 in. – caliper	54 in.
6 to 7 in. – caliper	60 in.
7 to 8 in. – caliper	72 in.
8 to 9 in. – caliper	84 in.
9 to 10 in. - caliper	90 in.

Columnar Broadleaf Evergreens (e.g. boxwood)

<u>Height/Caliper</u>	<u>Min. Ball Diameter</u>
12 to 15 in. - height	7 in.
15 to 18 in. – height	8 in.
18 to 24 in. – height	9 in.
24 to 30 in. – height	11 in.
30 to 36 in. – height	13 in.
3 to 4 ft. – height	14 in.
4 to 5 ft. – height	16 in.
5 to 6 ft. – height	18 in.
6 to 7 ft. – height	20 in.
7 to 8 ft. – height	22 in.
8 to 9 ft. – height	24 in.
9 ft. – height & 2 ½ to 3 in. – caliper	26 in.
3 to 3 ½ in. – caliper	28 in.
3 ½ to 4 in. – caliper	32 in.
4 to 4 ½ in. – caliper	36 in.
4 ½ to 5 in. – caliper	40 in.
5 to 5 ½ in. – caliper	44 in.
5 ½ to 6 in. – caliper	48 in.
6 to 7 in. – caliper	54 in.
7 to 8 in. – caliper	66 in.
8 to 9 in. – caliper	78 in.
9 to 10 in. – caliper	90 in.

Narrow Or Upright Shrub Form Trees and Multi-Stem Trees (e.g. Serviceberry, common lilac)

<u>Height</u>	<u>Min. Ball Diameter</u>
4 to 5 ft.	14 in.
5 to 6 ft.	18 in.
6 to 7 ft.	22 in.
7 to 8 ft.	26 in.
8 to 10 ft.	28 in.
10 to 12 ft.	32 in.
12 to 14 ft.	38 in.
14 to 16 ft.	44 in.
16 to 18 ft.	50 in.
18 to 20 ft.	60 in.
<20 ft.	70 in.

Broad or Spreading Shrub Form Trees and Multi-Stem Trees (e.g. Serviceberry, common lilac)

<u>Height</u>	<u>Min. Ball Diameter</u>
4 to 5 ft.	24 in.
5 to 6 ft.	28 in.
6 to 7 ft.	32 in.
7 to 8 ft.	36 in.

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8 to 10 ft.	40 in.
10 to 12 ft.	44 in.
12 to 14 ft.	52 in.
14 to 16 ft.	60 in.
16 to 18 ft.	66 in.
18 to 20 ft.	74 in.
<20 ft.	80 in.

BALL DEPTHS

Ball depths shall carry the following ratios for nursery grown stock:

Ball with diameters less than 20 inches- depth not less than 65% of diameter- except collected aspens, not less than 40% of diameter.

Ball with diameters of more than 20 inches- depth not less than 60% of diameter- except for collected aspen, not less than 40% of diameter.

BALL DIAMETERS FOR COLLECTED NURSERY STOCK

Balled and burlapped nursery stock which has been collected from its original native habitat shall meet the minimum ball diameter requirements stated in the following tables. Caliper measurements shall be taken six inches above the soil line. Ball diameter measurements shall be taken six inches below the soil line on stock dug by a mechanical spade or other machine.

Type 6 - Collected Pinyon Pine

<u>Caliper</u>	<u>Min. Ball Diameter</u>
1 to 1 1/2 in.	16 in.
1 1/2 to 2 in.	18 in.
2 to 2 1/2 in.	20 in.
2 1/2 to 3 in.	24 in.
3 to 3 1/2 in.	26 in.
3 1/2 to 4 in.	28 in.
4 to 4 1/2 in.	32 in.
4 1/2 to 5 in.	36 in.

Type 7 - Collected Aspen

<u>Height</u>	<u>Min. Ball Diameter</u>
5 to 6 ft.	8 in.
6 to 8 ft.	10 in.

<u>Caliper</u>	
1 to 1 1/2 in.	12 in.
1 1/2 to 2 in.	14 in.
2 to 2 1/2 in.	18 in.
2 1/2 to 3 in.	22 in.

Clump aspen trees shall be measured by the largest stem.

Type 8 - All Collected Plants other than Pinyon Pine and Aspen

<u>Caliper</u>	<u>Min. Ball Diameter</u>
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<u>Caliper</u>	<u>Min. Ball Diameter</u>
1 to 1 1/2 in.	14 in.
1 1/2 to 2 in.	16 in.
2 to 2 1/2 in.	20 in.
2 1/2 to 3 in.	24 in.
3 to 3 1/2 in.	28 in.
3 1/2 to 4 in.	32 in.
4 to 4 1/2 in.	36 in.
4 1/2 to 5 in.	40 in.

For caliper sizes larger than those given under Type 8 the ratio of ball diameter to caliper shall be 8 to 1.

BALL DEPTHS

Ball Depths shall carry the following ratios for collected nursery stock:

Balls with diameters less than 20 inches- depth not less than 75% of diameter- except for on collected aspen, not less than 40% of diameter.

Balls with diameters of 20 inches to 30 inches incl.- depth not less than 66 2/3% of diameter- except for on collected aspen, not less than 40% of diameter.

Balls with diameters of 31 inches to 48 inches incl.- depth not less than 60% of diameter.

26-2.12 SPECIFICATIONS FOR BALLED AND POTTED STOCK

“Balled and potted” stock shall meet the balling and burlapping specifications in 26-2.11 of these rules and regulations.

26-2.13 SPECIFICATIONS FOR IN-GROUND FABRIC BAG-GROWN STOCK

FABRIC BAG DIAMETERS FOR BAG-GROWN STOCK

In-ground fabric bag-grown stock shall meet the minimum fabric bag diameters stated in the following tables:

Type 1 - Faster Growing Coniferous Evergreens (e.g., Pinus strobus, Juniperus scopulorum, and Juniperus chinensis)

<u>Height</u>	<u>Minimum Bag Diameter</u>
4 ft.	10 in.
5 ft.	12 in.
6 ft.	14 in.
8 ft.	16 in.
10 ft.	18 in.
12 ft.	20 in.
14 ft.	22 in.
16 ft.	24 in.

Type 2 - Slower Growing Coniferous Evergreens (e.g., Pinus nigra, Pinus edulis, and Picea pungens)

<u>Height</u>	<u>Minimum Bag Diameter</u>
3 ft.	10 in.

<u>Height</u>	<u>Minimum Bag Diameter</u>
4 ft.	12 in.
5 ft.	14 in.
6 ft.	16 in.
7 ft.	18 in.
8 ft.	20 in.
10 ft.	22 in.
12 ft.	24 in.

Type 3 - Broadleaf Evergreens (e.g., Pyracantha coccinea and Euonymus fortunei)

<u>Height</u>	<u>Minimum Bag Diameter</u>
3 ft.	10 in.
4 ft.	12 in.
4 ft.	14 in.
5 ft.	16 in.
6 ft.	18 in.
8 ft.	18 in.
9 ft.	20 in.
10 ft.	22 in.
12 ft.	24 in.

Type 4 - Deciduous Shrubs (e.g., Cotoneaster acutifolius, Berberis thunbergi and Prunus cistena)

<u>Height</u>	<u>Minimum Bag Diameter</u>
3 ft.	10 in.
4 ft.	12 in.
5 ft.	14 in.
6 ft.	16 in.
8 ft.	18 in.
10 ft.	22 in.
12 ft.	24 in.

Type 5 - Shade and Ornamental Trees (e.g., Acer saccharinum, Gleditsia triacanthos and Prunus virginiana schubert)

<u>Caliper</u>	<u>Minimum Bag Diameter</u>
1 1/4 in.	10 in.
1 1/2 in.	12 in.
1 3/4 in.	14 in.
2 in.	16 in.
2 1/2 in.	18 in.
3 in.	20 in.
3 1/2 in.	22 in.
4 in.	24 in.

FABRIC BAG DEPTHS

Fabric bag depths shall have the following relationship to fabric bag diameter:

<u>Bag Diameter</u>	<u>Bag Depth</u>
10 in.	11 in.
12 in.	11 in.
14 in.	13 in.
16 in.	13 in.

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<u>Bag Diameter</u>	<u>Bag Depth</u>
18 in.	15 in.
20 in.	15 in.
22 in.	17 in.
24 in.	17 in.

26-3.0 CONDITION OF NURSERY STOCK

26-3.1 INSECT PESTS AND PLANT DISEASES

All nursery stock shall be free of insect pests and plant diseases.

26-3.2 CONTAINER STOCK

GENERAL

All container stock shall be kept and displayed under conditions of temperature, light and moisture sufficient to maintain the continuing viability and vigor of the stock so that it might grow in a form characteristic of the species when planted and given reasonable care.

CONTAINER GROWN STOCK

Container grown stock shall be established in the container and shall exhibit a well-rooted condition as evidenced by the soil ball of such stock remaining intact upon removing it from the container.

POTTED STOCK

Potted stock shall be placed only in a plantable container so that the root system and growing medium need not be removed from the container when planting the stock. Evergreens shall not be sold as potted stock, excepting seedlings and transplants 12 inches or under. Root systems for potted stock shall conform to descriptions given under 26-2.1 and 26-2.2 of these rules and regulations, and shall be placed in a container of a size adequate to contain the root system without crowding.

26-3.3 BARE ROOT STOCK

GENERAL

Packaged and unpackaged bare root stock shall be kept and displayed under conditions of temperature and moisture sufficient to maintain the continuing viability and vigor of the stock so that it might grow in a form characteristic of the species when planted and given reasonable care. Such bare root stock shall also be kept and displayed under conditions that will retard etiolated or otherwise abnormal growth. Removal of primary buds and/or shoots on bare root stock reduces the vigor of the plants and is prohibited. Evergreens shall not be sold as bare root stock, excepting seedlings and transplants 12 inches or under.

WAXING

Colored waxes or other materials which coat the aerial parts of the plant and change the appearance of the plant surface so as to prevent adequate inspection are prohibited.

26-3.4 BALLED STOCK

GENERAL

All balled stock shall be kept and displayed under conditions of temperature, light and moisture sufficient to maintain the continuing viability and vigor of the stock so that it might grow in a form characteristic of the species when planted and given reasonable care.

BALLED AND BURLAPPED STOCK

Balled and burlapped stock shall be kept and displayed with the soil ball surrounded by a moisture-retaining material to prevent desiccation of the root system, and handled in such a manner that the soil ball will not become broken or loose. Balled and burlapped stock with broken or loose earth balls shall not be offered for sale.

BALLED AND POTTED STOCK

Balled and potted stock shall be kept and displayed in such a manner that the soil ball will not become broken or loose. Balled and potted stock with broken or loose earth balls shall not be offered for sale.

26-3.5 TURFGRASS SOD

SPECIFICATIONS

Turfgrass sod, when delivered or offered for sale, shall be free of prohibited weeds, as given under 26-1.10 of these rules and regulations, and shall contain no more than three percent (3%) of other weeds, including annual bluegrass (Poa annua), per one thousand square feet.

DISPLAY CONDITIONS

Harvested turfgrass sod shall, when offered or exposed for sale, be kept and displayed in such a manner as to maintain the continuing viability of the sod.

26-3.6 BENCH PACKED STOCK

Bench packed stock shall be kept and displayed under conditions of temperature, light and moisture sufficient to maintain the continuing viability and vigor of the stock so that it might grow in a form characteristic of the species when planted and given reasonable care. The balls shall be surrounded by a moisture-retaining material to prevent desiccation of the root systems. Root systems for bench packed stock shall conform to descriptions given under 26-2.1 and 26-2.2 of these rules and regulations. Evergreens shall not be sold as bench packed stock.

26-3.7 IN-GROUND FABRIC BAG-GROWN STOCK

In-ground fabric bag-grown stock shall be kept and displayed under conditions of temperature, light, and moisture sufficient to maintain the continuing viability and vigor of the stock so that it might grown in a form characteristic of the species when planted and given reasonable care. The bags shall be surrounded by a moisture retaining material to prevent desiccation of the root systems.

26-4.0 SPECIAL LABELING REQUIREMENTS

26-4.1 BENCH PACKED STOCK

Bench packed stock shall bear a special label to read as follows:

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BENCH PACKED NURSERY STOCK

This plant has been removed from the growing site in a bare root condition. A growing medium mixture has been packed around the root system to form a ball.

This label shall be printed on a separate tag of sufficient size to be openly conspicuous. The title of the label shall be in 18 point or larger bold face type and the text of the label shall be in 14 point or larger type on a contrasting background so as to be clearly legible.

The above described label shall be securely attached to each item of bench packed nursery stock when offered for sale.

26-4.2 TURFGRASS SOD

A seller of turfgrass sod shall be required to state on the sales contract, invoice or bill of lading the variety, named blend or mixture of turfgrasses involved in the transaction. Each different lot of harvested turfgrass sod shall, when offered or exposed for sale, be identified by a sign stating the variety, kinds, or named blend or mixture as stated on the invoice or bill of lading from the grower.

26-4.3 IN-GROUND FABRIC BAG-GROWN STOCK

In-ground fabric bag-grown stock shall bear a special label to read as follows:

FABRIC BAG-GROWN NURSERY STOCK

The root system of this plant must be removed from the bag, with the soil ball intact, before planting.

This label shall be printed on a separate tag of sufficient size to be openly conspicuous. The title of the label shall be in 18 point or larger type on a contrasting background so as to be clearly legible.

The above-described label shall be securely attached to each item of in-ground fabric bag-grown nursery stock when offered for sale.

26.5.0 FEES

26-5.1 INSPECTION FEES - ACTUAL COST

A charge of thirty dollars (\$30) per hour per inspector for actual inspection time shall be collected to defray the costs of inspections made pursuant to the statute. The minimum charge for each inspection made shall be the charge of one hour of inspection time.

26-5.2 REGISTRATION FEES

The fee for a registration shall be ninety dollars (\$90) for each place of business.

26-6.0 REQUIREMENTS FOR COLLECTORS

26-6.1 AUTHORIZATION FOR COLLECTION OF NURSERY STOCK

Evidence of authorization to have collected any and all nursery stock held or offered for sale shall consist of the following information:

Bill of sale or other document attesting to sale of trees, shrubs or other nursery stock, issued by the owner of a property, either private or public, from which the nursery stock was collected; or

Written contract or agreement between a collector and a property owner authorizing the collection of nursery stock from the property.

26-7.0 STANDARDS AND FEES FOR QUALIFICATION OF NURSERY STOCK INSPECTORS

26-7.1 DEMONSTRATION OF KNOWLEDGE

Persons who seek to contract with the Department of Agriculture to perform nursery stock inspections shall demonstrate knowledge suitable to perform inspections of nursery stock concerning plant viability, root systems, insect pests, plant diseases, plant identification and other aspects of nursery stock. Such persons shall also demonstrate knowledge of the requirements of the Colorado Nursery Act and all rules and regulations. Such knowledge shall be demonstrated by successfully passing an examination, written and/or oral, administered by the Department of Agriculture.

26-7.2 FEE FOR QUALIFYING

Persons who seek to contract with the Department of Agriculture to perform nursery stock inspections shall pay actual cost for time spent by Department personnel and material utilized in qualifying such persons.

26-8.0 ENFORCEMENT OF PROHIBITED WEED RULES BY LOCAL GOVERNMENT ENTITIES

26-8.1 AUTHORITY TO CONDUCT INSPECTIONS

The Commissioner may authorize individual counties, weed districts and other local governmental entities to conduct nursery stock inspections as provided for in section 35-26-103, C.R.S., for the limited purpose of enforcing Part 26-9.0 of these Rules pertaining to the sale of prohibited weeds.

26-8.2 AUTHORITY TO ISSUE STOP SALE ORDERS

The Commissioner may authorize individual counties, weed districts and other local governmental entities to issue stop sale orders as provided for in section 35-26-1015, C.R.S., for the limited purpose of enforcing Part 26-9.0 of these Rules pertaining to the sale of prohibited weeds.

26-8.3 STANDARDS FOR QUALIFICATION OF LOCAL GOVERNMENTAL ENTITIES TO ENFORCE PROHIBITED WEED RULES

- A. Any local governmental entity wishing to conduct prohibited weed inspections or issue stop sale orders as an agent of the Commissioner to enforce Part 26-9.0 of these Rules shall submit an application in the form and manner prescribed by the Commissioner.
- B. Every applicant must submit a list of the names of all employees who will perform such work and, if the application is granted, inform the Commissioner of any subsequent changes to the list within 10 days. All listed employees must be able to demonstrate, to the satisfaction of the Commissioner:
 - i. Sufficient scientific knowledge to identify the species listed as prohibited weeds in section 26-9.0;

- ii. Sufficient legal knowledge to conduct inspections and issue stop sale orders for the purpose of enforcing Part 26-9.0 in accordance with the Colorado Nursery Act and its associated Rules.
- C. The decision to grant or deny an application from a local governmental entity for authority to enforce Part 26-9.0 rests solely within the discretion of the Commissioner. Nothing in these Rules shall obligate the Commissioner to grant any application if the Commissioner determines that such decision would not serve the interests of the Department.

26-8.4 MEMORANDUM OF AGREEMENT

Once an application is granted by the Commissioner, the local governmental entity that submitted it shall be required to enter into a Memorandum of Agreement specifying the terms and conditions under which the entity, through its designated employees, is authorized to perform such work. At any time thereafter, the Commissioner of the local governmental entity may terminate the Memorandum of Agreement for any reason by giving written notice to the other party.

26-8.5 FINANCIAL AND LEGAL RESPONSIBILITY

There shall be no charge for any inspection conducted by a local governmental entity acting under the Commissioner’s authority in accordance with this Part 26-8.0. All costs incurred by a local governmental entity in conducting such inspections shall be the sole and exclusive responsibility of that entity. No Memorandum of Agreement entered into under this Part 26-8.0 shall create or impose any financial or legal responsibility or obligation on the State of Colorado or any of its employees for any action taken by any signatory local governmental entity or its employees.

26-9.0 PROHIBITED WEEDS

The following plant species shall not be sold as nursery stock within the State of Colorado or contaminate nursery stock (except that this provision does not apply to turfgrass), as evidenced by plants or plant parts visible above the ground in nursery stock prepared for sale within the State of Colorado:

ORNAMENTAL VARIETIES

- Bouncingbet (*Saponaria officinalis*)
- Chinese clematis (*Clematis orientalis*)
- Common St. Johnswort (*Hypericum perforatum*)
- Common tansy (*Tanacetum vulgare*)
- Cypress spurge (*Euphorbia cyparissias*)
- Dame’s rocket (*Hesperis matronalis*)
- Giant salvinia (*Salvinia molesta*)
- Hydrilla (*Hydrilla verticillata*)
- Myrtle spurge (*Euphorbia myrsinites*)
- Orange hawkweed (*Hieracium aurantiacum*)
- Oxeye daisy (*Chrysanthemum leucanthemum*)
- Purple loosestrife (*Lythrum salicaria* and *L. virgatum*)
- Russian-olive (*Elaeagnus angustifolia*)
- Saltcedar (*Tamarix parviflora* and *T. ramosissima*)
- Scentless chamomile (*Matricaria perforata*)
- Yellow toadflax (*Linaria vulgaris*)

OTHER VARIETIES

- Absinth wormwood (*Artemisia absinthium*)

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African rue (*Peganum harmala*)
Black henbane (*Hyoscyamus niger*)
Bull thistle (*Cirsium vulgare*)
Camelthorn (*Alhagi pseudalhagi*)
Canada thistle (*Cirsium arvense*)
Chicory (*Cichorium intybus*)
Common burdock (*Arctium minus*)
Common crupina (*Crupina vulgaris*)
Common mullein (*Verbascum thapsus*)
Common teasel (*Dipsacus fullonum*)
Corn Chamomile (*Anthemis Arvensis*)
Cutleaf Teasel (*Dipsacus Laciniatus*)
Dalmatian toadflax, broad-leaved (*Linaria dalmatica*)
Dalmatian toadflax, narrow-leaved (*L. genistifolia*)
Diffuse knapweed (*Centaurea diffusa*)
Downy brome (*Bromus tectorum*)
Dyer's woad (*Isatis tinctoria*)
Eurasian watermilfoil (*Myriophyllum spicatum*)
Field bindweed (*Convolvulus arvensis*)
Halogeton (*Halogeton glomeratus*)
Hoary cress (*Cardaria draba*)
Houndstongue (*Cynoglossum officinale*)
Johnsongrass (*Sorghum halepense*)
Jointed goatgrass (*Aegilops cylindrica*)
Leafy spurge (*Euphorbia esula*)
Mayweed chamomile (*Anthemis cotula*)
Meadow knapweed (*Centaurea pratensis*)
Mediterranean sage (*Salvia aethiopsis*)
Medusahead (*Taeniatherum caput-medusae*)
Moth mullein (*Verbascum blattaria*)
Musk thistle (*Carduus nutans*)
Perennial pepperweed (*Lepidium latifolium*)
Perennial sowthistle (*Sonchus arvensis*)
Plumeless thistle (*Carduus acanthoides*)
Poison hemlock (*Conium maculatum*)
Puncturevine (*Tribulus terrestris*)
Quackgrass (*Elytrigia repens*)
Redstem filaree (*Erodium cicutarium*)
Rush skeletonweed (*Chondrilla juncea*)
Russian knapweed (*Acroptilon repens*)
Scotch thistle (*Onopordum acanthium* and *O. taucum*)
Sericea lespedeza (*Lespedeza cuneata*)
Spotted knapweed (*Centaurea maculosa*)
Spurred anoda (*Anoda cristata*)
Squarrose knapweed (*Centaurea virgata*)
Sulfur cinquefoil (*Potentilla recta*)
Tansy ragwort (*Senecio jacobaea*)
Velvetleaf (*Abutilon theophrasti*)
Wild caraway (*Carum carvi*)
Wild proso millet (*Panicum miliaceum*)
Yellow nutsedge (*Cyperus esculentus*)
Yellow starthistle (*Centaurea solstitialis*)

26-10.0 REQUIRED RECORDS

26-10.1 RECORDS REQUIRED

All persons engaged in the business of selling nursery stock in this state shall keep records of all shipments of nursery stock imported from outside this state. These records shall be kept for a minimum of three years. Such records shall include the following information:

date stock was received; name and address of business from which stock was purchased; kind and type of nursery stock (including common name, and/or genus and species names); amount of nursery stock received; and container size, tree caliper, tree height, or root ball size.

26-11.0 Reserved

26-12.0 Statements of Basis, Specific Statutory Authority and Purpose

The statements of basis and purpose for some rule changes are no longer in the Department files and are presumably in the state archives.

26-12.1 August 26, 1983 – Effective August 26, 1983

Emergency Regulation

This rule adopted pursuant to the authority granted the commissioner of agriculture under Title 35, Section 111, C.R.S. 1973, as amended.

House Bill No. 1242 became law on July 1, 1983. It mandates that the commissioner shall establish a minimum charge per inspection, determine the cost of inspections and establish the charge therefore by rule or regulation. Inspections may not be performed until this charge is established. The nursery law mandates that each nursery be inspected at least once a year. The season of the year dictates that these inspections be made in September when trees are still in leaf and actively growing. If this emergency regulation is not adopted at this time, inspections may not be performed until after October 30. Approximately one hundred twenty nursery inspections must be made. These inspections provide consumer protection and make it possible for Colorado nurserymen to export their stock into other states. The immediate adoption of rule 26-5.1 is imperatively necessary for the preservation of public health, safety and welfare, and compliance with the requirements of the Administrative Procedures Act would be contrary to the public interest.

26.12.2 August 26, 1983 – Effective October 30, 1983

These regulations are adopted pursuant to the authority granted the commissioner of agriculture under Title 35, Section 111, C.R.S. 1973, as amended.

The purpose of these regulations is to protect consumers of the state of Colorado and to prevent the spread of weeds by regulating labeling of the weed content in turfgrass sod, to protect consumers by standardizing measurement methods for machine-dug trees, and to set fees for inspections required by the Colorado Nursery Act.

26.12.3 January 28, 1987 – Effective March 30, 1987

Section 35-26-106, C.R.S., as amended, mandates that the commissioner shall, by rule or regulation, establish a charge for the actual cost incurred in making inspections. Costs have increased since the

original fee of fifteen dollars per hour was established in 1983. It has therefore become necessary to increase the fee to eighteen dollars per hour, based on current costs, to meet this mandate.

26.12.4 August 27, 1987 – Effective October 30, 1987

Section 35-26-106, C.R.S., states the maximum inspection fee per inspection, which is one hundred fifty dollars, effective July 1, 1987. There is no need to state this maximum in the regulations since it is in the statute. This Section also requires that the commissioner shall, by rule or regulation, establish a license fee for each place of business, not to exceed one hundred dollars. The combination of license and inspection fees received annually must cover the complete cost, direct and indirect, of the nursery licensing and inspection program. It is anticipated that there may be a ten percent dropoff in the number of licensees from the previous year because of homeowners, not in business, who buy licenses to get wholesale prices and businesses which handle a very small amount of nursery stock and may stop selling it. Based on this reduced number of licensees and taking into consideration projected inspection fee revenue, a license fee of sixty dollars should provide the needed revenue.

26.12.5 May 20, 1988 – Effective June 30, 1988

Section 35-26-111 authorizes and directs the commissioner to promulgate such rules and regulations as he may deem necessary and proper for the furtherance and enforcement of the provisions of the Colorado Nursery Act. Section 35-26-104(2) states that the grade or size shall meet the specifications established by rules or regulations. Members of the 1986-87 Nursery Advisory Committee made suggestions for changes to existing ball size requirements that they felt were warranted, based on their experience as growers and sellers of nursery stock in this state. They particularly felt that separate specifications were needed for collected aspen trees, since their root systems are different from most other deciduous trees, especially in that they are shallower. The Department of Agriculture agrees with these suggestions and adopts same as also reflecting the position of the Department of Agriculture. Examples of the different types of trees are included at the top of each type chart, rather than at the end of all the charts, in order to make the charts easier to interpret.

26.12.6 October 18, 1991 – Effective November 30, 1991

The following rules are hereby promulgated under the authority of the Colorado Nursery Act, Sections 35-26-101 to 115, C.R.S. (1984 and 1990 Supp. as amended by Senate Bill 91-65). They deal with four different sections, including changes to two sections and creating two new sections.

The ball size specifications for bench packed stock are given in two different sections of the Rules and Regulations, due to an error made at an earlier time. The most appropriate specifications are found in subsection 26-3.6, which refers to specifications for bare root stock. This more closely applies to bench packed stock than the specification given in subsection 26-2.13, which refers to specifications for balled and burlapped stock. Bench packed stock is bare root stock with the roots packed in a growing medium mixture and is not dug with root system and soil ball intact as is balled and burlapped stock. Subsection 26-2.13 is therefore repealed.

Inspection fees are raised from eighteen dollars per hour to twenty dollars per hour to cover increases in the cost of performing inspections. Amendments to the Colorado Nursery Act changed the word license to registration. This requires the establishing of a registration fee to take effect on January 1, 1992. This fee is raised from the most recent license fee, sixty dollars, to seventy-five dollars to cover increasing costs of administering the program.

The Colorado Nursery Act specifies that rules and regulations be promulgated to give requirements concerning evidence of authorization to have collected nursery stock in the possession of nursery stock collectors. A new section 26-6.0, is created to serve this purpose.

Also specified by the Colorado Nursery Act are rules to establish minimum standards for the qualification of individuals who are authorized to make inspections as agents of the Commissioner who are not employees of the Department of Agriculture. A new section, 26-7.0, is created, requiring that persons seeking to contract with the Department shall demonstrate knowledge to meet the minimum standard by successfully passing an examination. The Colorado Nursery Act states that the Commissioner may charge a fee for qualifying such persons as inspectors. Section 7.0 establishes that fees shall be set to cover all costs of qualifying such persons.

26.12.7 September 17, 1993 – Effective October 30, 1993

The following rules are hereby promulgated under the authority of the Colorado Nursery Act, pursuant to Section 35-26-111, C.R.S. (1984). They deal with balling and burlapping specifications.

The statement is made in subsection 26-2.11, dealing with ball diameters for nursery grown stock, that ball diameters shall be measured six inches below the soil line on stock dug by a mechanical spade. This statement is amended to add the word “original” to define “soil line”. The original soil line is at the trunk. The edges of the ball may be tapered off and measuring from the edge would give a different depth than from the original soil line at the trunk.

The table in Section 26-2.11, Type 2, is amended to give required minimum ball diameters in relation to height or caliper for trees in this type, such as pine and spruce. Caliper represents a more accurate indicator of tree growth than does height, for coniferous evergreen trees of this type.

26.12.8 January 19, 1995 – Effective March 2, 1995

The following rule is hereby promulgated under the authority of the Colorado Nursery Act, pursuant to Section 35-26-111, C.R.S. (1984) and Section 35-26-106(3), C.R.S. (1994 Supp.)

This rule sets the charge per hour per inspector for inspections made pursuant to the statute. The statute requires that actual cost incurred in making inspections be determined and a charge therefore be established. Actual costs have increased since the most recent charge was established. A new charge for inspections is therefore established in amendments to this rule.

26.12.9 September 8, 1995 – Effective October 30, 1995

This amendment to the rules and regulations is adopted pursuant to the Colorado Nursery Act, § 35-21-111, C.R.S. (1984).

The purpose of this amendment to the rules and regulations is to adopt such rules and regulations as necessary for the furtherance and enforcement of the Colorado Nursery Act, specifically, to define the terms sell, offer for sale and sale as those terms are utilized in the Colorado Nursery Act and the rules and regulations thereto.

26.12.10 February 17, 1998 – Effective March 30, 1998

These amended rules are adopted pursuant to § 35-26-111, C.R.S. (1997) and pertain to the furtherance and enforcement of the provisions of the Colorado Nursery Act, §§ 35-26-101 through 115, C.R.S. (1997).

The purposes of these amended rules are to: establish specifications for in-ground fabric bag-grown stock; to increase the fee charged for inspections; and to address the statewide concerns about noxious weeds raised by the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (1997) and the rules promulgated thereto.

26.12.11 September 23, 1999 – Effective November 30, 1999

These amendments are adopted pursuant to §§ 35-26-106(1) and 106(3) and § 35-26-111, C.R.S. (1999) and pertain to the registration fee, the inspection fee and the furtherance and enforcement of the provisions of the Colorado Nursery Act, §§ 35-26-101 through 114, C.R.S. (1999).

The purposes of these amendments are to: update the provisions pertaining to field-grown roses to reflect current industry standards and; increase the registration fee and the inspection fee to defray the direct and indirect costs of carrying out the purposes of the Colorado Nursery Act and these rules.

26.12.12 October 30, 2002 – Effective January 30, 2003

Statutory Authority:

These amendments to the permanent rules are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Nursery Act (the "Act") at section 35-26-111, C.R.S.

Purpose:

The purpose of these amendments is to:

1. Add and delete plant species to/from the list of prohibited weeds that shall not be sold as nursery stock in Colorado.

Factual and Policy Issues:

The factual and policy issues encountered in proposing these amendments are as follows:

1. In 2001, the Colorado Department of Agriculture revised the state noxious weed list pursuant to 35-5.5-115 and added and deleted a number of newly recognized noxious weed species.
2. These species are required to be managed on lands of the State of Colorado.
3. The continued sale of these species as plant materials or as contaminants to plant materials presents a threat to the agricultural and environmental systems of Colorado.

26-12.13 March 9, 2006 – Effective May 30, 2006

Pursuant to the provisions and requirements of the Colorado Nursery Act to regulate the sale and distribution of nursery stock, and by authority of Title 35, Article 26, Section 111, and 35-26-103(3) CRS 2005, the following rules and regulations are hereby promulgated:

Statutory Authority:

These amendments to the permanent rules pertain to Part 2 "Grading of Nursery Stock", new Part 8 "Enforcement Of Prohibited Weed Rules By Local Governmental Entities" and Part 9 Prohibited Weeds.

Purpose:

The purpose of this rulemaking is to update the specifications for balled and burlapped nursery stock balled to be consistent with the American Standard for Nursery Stock where appropriate, provide for enforcement of the prohibited weed rules by local governmental entities and update the prohibited weed list to mirror the Colorado noxious weed law.

Factual and Policy Issues:

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

- (1) The American Standard for Nursery Stock as adopted by the American Nursery and Landscape Association has changed several of the standards for balled and burlapped nursery stock. In order to facilitate interstate movement of nursery stock it is necessary to have similar standards between states as appropriate based on climatic conditions.
- (2) Some local governmental entities, primarily weed districts, have a vested interest in prohibiting the sale of weeds. Some of these entities wish to take an active role in inspecting and enforcing against nursery dealers that attempt to sell prohibited weeds as defined in part 9.0. Providing a mechanism to allow them to perform these functions is also advantageous to the Colorado Department of Agriculture. This process provides the ability to inspect and take action in remote areas that the Department may not be able to reach except a few times per year.
- (3) The noxious weed list has been modified to remove species considered native to Colorado or are so widespread that it is impossible to obtain statewide control. The prohibited weed list is being changed to parallel these changes.

26-12.14 November 19, 2009 – Effective December 30, 2009

Statutory Authority

These amendments to the rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“CDA”) pursuant to his authority under the Colorado Nursery Act (the "Act"), § 35-26-111 C.R.S.

Purpose

The purposes of these proposed rule amendments are as follows:

- 1) To increase the nursery registration fee from \$80 to \$90.
- 2) To require records be kept of all nursery stock imported into the State of Colorado.

Factual and Policy Basis Issues

The factual and policy issues encountered when developing these rules include:

- 1) The nursery fund balance has been near zero for the past two years. Revenue from registration fees has been flat and has not kept up with the increases in operating expenses such as personal services and fuel costs since the last increase. Although the program is a cash funded program, the revenue generated does not cover the actual costs of the program and therefore the program is subsidized by general funds.

- 2) The registration fee is capped in statute at \$100 (35-26-106(1) C.R.S.)
- 3) 35-26-106(1) C.R.S. provides that the Commissioner shall, by rule or regulation, establish a registration fee for each place of business.
- 4) The Colorado Nursery and Greenhouse Association supports this increase in the registration fee.
- 5) The average number of nursery registrations per year is 1,700. Therefore this increase will generate an increase in revenue of \$17,000 for the program.
- 6) Registration fees have not been increased since November 1999.
- 7) For several decades it has been known that movement of nursery stock is a primary mechanism of movement and introduction of plant pests. In recent years it has become very apparent that new plant pests are moving into the State on nursery stock. Japanese beetle is an excellent example. It was introduced into a small area in the Denver Metro area and has now become established in two other areas. It is a significant pest in these locations. Emerald Ash Borer is another example of a devastating pest that has moved into many states in the east and mid-west but has not been found in Colorado yet.
- 8) In order to document stock that is moving into the state so that pest surveillance activities and inspections can be conducted in the most efficient manner possible, the nursery registrants that are importing stock need to be required to keep records that the Department can review.
- 9) 35-26-108(1)(b) C.R.S already provides that "At any time during regular business hours, the Commissioner shall have free and unimpeded access upon consent or upon issuing or obtaining an administrative search warrant to all records required to be kept at any reasonable time and may make copies of such records for the purpose of carrying out any provision of this article or any rule made pursuant to this article."
- 10) A Japanese beetle quarantine is being proposed to lessen the pressure of Japanese beetles being transported into the state on nursery stock. These record keeping regulations will assist with enforcement of this quarantine.

26-12.15 February 8, 2011 – Effective March 30, 2011

Statutory Authority

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Colorado Nursery Act (the "Act"), § 35-26-111 C.R.S.

Purpose

The purposes of these proposed rule amendments are as follows:

- 1) To clarify record keeping requirements for all nursery stock imported into the State of Colorado.

Factual and Policy Basis Issues

The factual and policy issues encountered when developing these rules include:

This copy of the text of the "Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Nursery Act" is provided as a convenience to the public by the Colorado Department of Agriculture and does not constitute an official publication of these Rules. The official version of these Rules is published by the Office of the Secretary of State in the Colorado Code of Regulations at 8 CCR 1203-5 and may be obtained from the following website: <http://www.sos.state.co.us/CCR/Welcome.do>.

- 1) In order to document stock that is moving into the state so that pest surveillance activities and inspections can be conducted in the most efficient manner possible, the nursery registrants that are importing stock need to be required to keep records that the Department can review.
- 2) 35-26-108(1)(b) C.R.S already provides that “At any time during regular business hours, the commissioner shall have free and unimpeded access upon consent or upon issuing or obtaining an administrative search warrant to all records required to be kept at any reasonable time and may make copies of such records for the purpose of carrying out any provision of this article or any rule made pursuant to this article.”
- 3) The industry often describes nursery stock on bill of lading by tree height and may not always use genus and species names. The changes proposed will accommodate current nursery practices.