

**SOME INFO
ABOUT REGULATING AND PROHIBITING
INVASIVE PLANTS**

**Especially
INVASIVE TERRESTRIAL TREES & SHRUBS**

Compiled by Tom Denny
Sustainable Saratoga's Urban Forestry Project
November 2013

tomdenny2010@gmail.com



www.sustainablesaratoga.org

“Each year in America, **more than 3 million acres are lost to invasive weeds** -- an area equal to a strip of land two miles wide stretching from coast to coast. Invasive species are choking out and destroying some of America's most valuable bird and wildlife habitat. In fact, invasive species are a primary threat to America's 94 million acre National Wildlife Refuge System as well as Audubon Important Bird Areas (IBAs) across the country.” - <http://policy.audubon.org/invasive-species>

[A fact sheet produced by Massachusetts compared the 3 million acres to **an area larger than Delaware.**]

March 2013

NY Office of Invasive Species Coordination
released

Invasiveness Assessment Scores & Ranks,
based on lengthy scientific study
with the **Brooklyn Botanical Garden** as the lead agency

Three popular landscaping and street species

Burning Bush

Norway Maple

Japanese Barberry

were ranked **“very highly invasive”**

with the recommendation

“Do Not Sell”

October 2013

New York DEC releases proposed invasive species regulations

<http://www.dec.ny.gov/regulations/93848.html>

6 NYCRR Part 575 Prohibited and Regulated Invasive Species Express Terms

“ The purpose of this rulemaking is to help
control invasive species,
a form of **biological pollution,**
by reducing the introduction of new and
the spread of existing populations,
thereby having a positive impact on the environment.”

October 2013

Of the three “very highly invasive,”
popular landscaping and street species,
ONLY Japanese Barberry is “prohibited”

In New York’s proposed regulations,
Burning Bush (winged euonymus) & Norway Maple
will be merely “regulated” (far weaker control)
& **will continue to be sold**

despite the March 2013 ecological recommendation
of “Do Not Sell”

The economic impact on the nursery industry will likely be cited to explain why New York proposes to continue to allow the sale of these “**very highly invasive**” species.

Several neighboring states that have banned burning bush, Norway maple, and Japanese barberry, accommodated the nursery industry’s concerns with either a 1-year or a 3-year phase-out period during which nurseries could sell off their inventory.

New Hampshire banned all three in **2007**

Massachusetts banned all three in **2009**

Vermont banned all three in **2013**

Although NYS needs to balance environmental and economic costs, New York’s proposed regulations seem to offer too much accommodation to the nursery industry, to the detriment of the long-term well being of our forests.

ACT NOW

before the **December 23, 2013** deadline

TELL DEC

(NY Dept. of Environmental Conservation)

to

PUT burning bush

& Norway maple

on the

PROHIBITED list

of invasive species

(i.e., promote the two species from the “Regulated” list)

NEW YORK

DEC invasive species process

Released species assessments and rankings in March 2013

Released proposed regulations in October 2013

Public hearing in Albany, December 16, 2013

Written comments due by December 23, 2013

Why can't NY adopt a

“Do Not Sell” policy

for all

“very highly invasive” species

Including

Burning bush, Japanese barberry, and Norway maple?

**Follow the scientific advice from the
Brooklyn Botanical Garden.**

Accommodate the nursery industry's concerns in other ways.

WRITTEN COMMENTS DUE BY DEC 23

EMAIL to

New York State

Department of Environmental Conservation
or email invasivesregs@gw.dec.state.ny.us

MAIL to

Leslie Surprenant, NYS DEC,
Invasive Species Coordination Unit,
625 Broadway, Floor 5, Albany, NY 12233

SPEAK AT PUBLIC HEARING

Albany Monday December 16 at 3:00
DEC Central Office, Public Assembly Room (Floor 1)
625 Broadway
Albany, NY 12233

"Beauty is the Beast"

View Sustainable Saratoga's scary video
about the invasion of
burning bush in
Skidmore College's North Woods

Available on YouTube:

<http://youtu.be/puJlpQHHCZA>

Consider These Alternatives to Invasive Shrubs

Before planting, research the soil and sun requirements and the size at maturity to determine if any plant is appropriate for your site.

- Highbush blueberry (*Vaccinium corymbosum*)
- Red chokeberry (*Aronia arbutifolia*) - “Brilliantissima” cultivar for best red fall color
- Red-berried Elder (*Sambucus racemosa*)
- Shining Sumac (*Rhus copallina*)
- ‘Gro-low’ fragrant sumac (*Rhus aromatica* ‘Grolow’).
- American cranberrybush viburnum (*Viburnum trilobum*)
- Redvein enkianthus (*Enkianthus campanulatus*) – not native, but not invasive
- Fothergilla (*Fothergilla gardenia* or *Fothergilla major*)
- Red chokeberry (*Aronia arbutifolia*)
- black chokeberry (*Aronia melanocarpa*)
- Common ninebark (*Physocarpus opulifolius*)
- Summersweet (*Clethra alni-folia*)
- Any of our native dogwoods

Further information on non-invasive shrubs:

http://extension.unh.edu/resources/files/resource001358_rep1815.pdf

The following slides contain
ADDITIONAL DETAILS
and information
about invasive species policies in
New York
and
neighboring states




NYS DEC TIMELINE & DOCUMENTS

- NYS Invasives Clearing House portal (includes individual rating sheets)
<http://www.nyis.info/?action=israt>
- Outline of process and system for ranking invasives (2012):
http://www.nyis.info/pdf/New_York_State_Invasive_Plant_Ranking_System_Rev_2012.pdf
- Interim list of invasive species (14 May 2012)
PDF: http://www.dec.ny.gov/docs/lands_forests_pdf/isplantlist.pdf
Web version: <http://www.dec.ny.gov/animals/65408.html>
- Numerical ranking of ecological impact of invasives (March 2013):
http://www.nyis.info/pdf/NYS%20INVASIVE%20PLANT%20RANKS_March%202013.pdf
- Proposed regulations (prohibited and regulated) (October 2013):
<http://www.dec.ny.gov/regulations/93848.html>

May
2012

Interim List

Terrestrial - Shrubs & Trees

	Common Name	Scientific Name	Draft Rank
	Norway Maple	<i>Acer platanoides</i>	Very High
	Japanese Angelica Tree	<i>Aralia elata</i>	Very High
	Japanese Barberry	<i>Berberis thunbergii</i>	Very High
	Autumn Olive	<i>Elaeagnus umbellata</i>	Very High
	Winged Euonymus	<i>Euonymus alatus</i>	Very High
	Amur Honeysuckle	<i>Lonicera maackii</i>	Very High
	Morrow's Honeysuckle	<i>Lonicera morrowii (incl. x bella)</i>	Very High
	Common Buckthorn	<i>Rhamnus cathartica</i>	Very High
	Black Locust	<i>Robinia pseudoacacia</i>	Very High
	Multiflora Rose	<i>Rosa multiflora</i>	Very High
	Wineberry	<i>Rubus phoenicolasius</i>	Very High
	Rusty Willow	<i>Salix atrocinerea</i>	Very High
	Sycamore Maple	<i>Acer pseudoplatanus</i>	High
	Smooth Buckthorn	<i>Frangula alnus</i>	High
	Border Privet	<i>Ligustrum obtusifolium</i>	High
	Amur Cork Tree	<i>Phellodendron amurense</i>	High
	Beach Vitex	<i>Vitex rotundifolia</i>	High

DEC has prepared individual
New York State Species Assessments
for each species

Burning bush

http://www.nyis.info/user_uploads/c77f1_Euonymus.alatus.NYS.pdf

Japanese barberry

http://www.nyis.info/user_uploads/30d9c_Berberis.thunbergii.NYS.pdf

Norway maple

http://www.nyis.info/user_uploads/aa4a6_Acer.platanoides.NYS.pdf

- ***575.3 Prohibited Invasive Species.***
- (a) Prohibited invasive species are identified in this section by scientific and common names and by specific categories of species.
- (b) Except as otherwise provided by this Part, **no person shall knowingly possess with the intent to sell, import, purchase, transport, or introduce** any prohibited invasive species.
- (c) Except as otherwise provided by this Part, **no person shall sell, import, purchase, transport, introduce or propagate any prohibited invasive species.**

NEW YORK: PARTIAL LIST of PROPOSED PROHIBITED SPECIES (Oct 2013)

(2) Plants. The following plant invasive species are prohibited:

AVERAGE SCORE = 80.63		MEDIAN SCORE = 79	
Scientific Name	Common Name	DEC Rating	DEC Score
i. <u><i>Acer pseudoplatanus</i></u>	Sycamore Maple	VH	71
ii. <u><i>Achyranthes japonica</i></u>	Japanese Chaff Flower		71
iii. <u><i>Alliaria petiolata</i></u>	Garlic Mustard	VH	84
iv. <u><i>Ampelopsis brevipedunculata</i></u>	Porcelain Berry		71
v. <u><i>Anthriscus sylvestris</i></u>	Wild Chervil		79
vi. <u><i>Aralia elata</i></u>	Japanese Angelica Tree		80
vii. <u><i>Artemisia vulgaris</i></u>	Mugwort		79
viii. <u><i>Arthraxon hispidus</i></u>	Small Carpgrass		76
ix. <u><i>Berberis thunbergii</i></u>	Japanese Barberry	VH	91
x. <u><i>Brachypodium sylvaticum</i></u>	Slender False Brome		87
xi. <u><i>Cabomba caroliniana</i></u>	Fanwort		72
xii. <u><i>Cardamine impatiens</i></u>	Narrowleaf Bittercress		76
xiii. <u><i>Celastrus orbiculatus</i></u>	Oriental Bittersweet		87
xiv. <u><i>Centaurea stoebe</i> (<i>C. biebersteinii</i>, <i>C. diffusa</i>, <i>C. maculosa</i> misapplied, <i>C. xpsammogena</i>)</u>	Spotted Knapweed		79
xv. <u><i>Cirsium arvense</i> (<i>C. setosum</i>, <i>C. incanum</i>, <i>Serratula arvensis</i>)</u>	Canada Thistle		71
xvi. <u><i>Cynanchum louiseae</i> (<i>C. nigrum</i>, <i>Vincetoxicum nigrum</i>)</u>	Black Swallow-wort		90
xvii. <u><i>Cynanchum rossicum</i> (<i>C. medium</i>, <i>Vincetoxicum medium</i>, <i>V. rossicum</i>)</u>	Pale Swallow-wort		88

Accommodation to Nursery Industry
regarding Japanese barberry

(f) A person may possess, sell, purchase, transport or introduce
for a maximum of one year following the effective date of this Part,
the prohibited invasive species listed below:

Berberis thunberg

Japanese Barberry

NEW YORK: PROPOSED REGULATION STANDARDS (Oct 2013)

- ***575.4 Regulated Invasive Species.***
- (a) Regulated invasive species are identified in this section by scientific and common names and by specific categories of species.
- (b) Except as otherwise provided by this Part, **no person shall knowingly introduce into a free-living state** or introduce by a means that one knew or should have known would lead to the introduction into a free-living state any regulated invasive species, although **such species shall be legal to possess, sell, buy, propagate and transport.**

(2) Plants. The following plant invasive species are regulated:

i. Acer platanoides	Norway Maple	82
ii. Clematis terniflora	Japanese Virgin's Bower	72
iii. Euonymus alatus	Burning Bush	81
iv. Euonymus fortune	Winter Creeper	77
v. Miscanthus sinensis	Chinese Silver Grass	78
vi. Robinia pseudoacacia	Black Locust	81

Neighboring States that have PROHIBITED Japanese Barberry, Norway Maple, & Burning Bush

- **New Hampshire (as of 2007):** Norway maple, Japanese barberry, European barberry, & Burning bush are prohibited - http://www.agriculture.nh.gov/divisions/plant_industry/documents/list.pdf - since 2007
- **Massachusetts (as of 2009):** Norway maple, barberry, and burning bush are on their “Invasive” list - <http://www.mass.gov/eea/docs/dfg/nhosp/land-protection-and-management/invasive-plant-list.pdf> - all 66 plants on the list are subject to “prohibitions on importation, propagation, purchase and sale in the Commonwealth” – effective Jan 1, 2009 - <http://www.mass.gov/eea/agencies/agr/farm-products/plants/massachusetts-prohibited-plant-list.html>
- **Vermont (as of 2013):** All three of these are on the list of Class B Noxious Weeds - “sale, movement, and / or distribution” is prohibited - “Specimens of these species acquired prior to the final filing of this rule may be sold or offered for sale until July 1, 2013.” http://agriculture.vermont.gov/sites/ag/files/pdf/plant_protection_weed_management/noxious_weeds/NoxiousWeedsQuarantine.pdf

Neighboring States that have NOT Prohibited Japanese Barberry, Norway Maple, & Burning Bush

- **Connecticut:** “Connecticut’s list of invasive and potentially invasive plants includes 97 species. Eighty of these species are prohibited. **Norway maple, burning bush, and Japanese barberry** are not prohibited species in CT.” – 2013.11.17 email from Donna Ellis Co-Chair, Connecticut Invasive Plant Working Group (CIPWG) - <http://www.cipwg.uconn.edu/Laws>
- **Pennsylvania:** all three are on PA’s invasives list, but “This list is not regulatory” - http://www.dcnr.state.pa.us/cs/groups/public/documents/document/dcnr_20026634.pdf

New Hampshire (as of 2007)

- http://www.agriculture.nh.gov/divisions/plant_industry/invasive-species.htm - main invasives page
- http://www.agriculture.nh.gov/divisions/plant_industry/documents/list.pdf - list of prohibited invasives
- **Prohibited species:**
Norway maple - Tree of heaven - Garlic mustard - **Japanese barberry** - European barberry - Oriental bittersweet - Spotted knapweed - Black swallow-wort - Pale swallow-wort - Autumn olive - **Burning bush** - Giant hogweed - Dame's rocket - Water-flag - Perennial pepperweed - Blunt-leaved privet - Japanese honeysuckle - Morrow's honeysuckle - Tartarian honeysuckle - Showy bush honeysuckle - Japanese stilt grass - Japanese knotweed - Mile-a-minute vine - Bohemia knotweed - Common buckthorn - Glossy buckthorn - Multiflora rose

A DETAILED DESCRIPTION OF THE PROCESS IN NEW HAMPSHIRE (personal email from Doug Cygan, 2013.11.19)

We solicited lists of “invasive plants” from 14 states located east of the Mississippi as well as providences of Canada. From this list we evaluated approximately 50 different plants and found 27 that met our criteria for prohibition, which included Norway maple (*Acer platanoides*), Burning bush (*Euonymus alatus*) and Japanese barberry (*Berberis thunbergii*).

Due to the controversy of banning these three species, the ISC needed to ensure that there was sufficient justification for prohibition. I was essentially the holdout and wanted to collect field data to show that in fact there were areas that these three plants had escaped and were causing negative impacts to the natural environment before moving forward. This took a couple of years. Once the data was collected we then met with other representatives of the nursery industry to solicit crop loss values as well as time periods required to liquidate their stock.

A DETAILED DESCRIPTION OF THE PROCESS IN NEW HAMPSHIRE

(personal email from Doug Cygan, 2013.11.19)

(continued)

Ultimately, through several negotiations, **the ISC and the nursery industry compromised on a 3-year phaseout period**. In addition, **by collecting field data** we were able to **show the industry and the public that these plants were in fact invasive**, which helped when it came to rulemaking. There was only one nursery industry representative who came to testify against the proposed rules at the hearing and they were the only ones opposed, everyone else who testified was in support. In all, it took 4-years from beginning to end to get our rules in place (see Rules 2004 for what was passed originally and AGR 3800, which have the current rules).

I've also attached a copy of the Variance that I created allowing for the study of invasives, which has been used once for the study of wheat rust of Japanese barberry.

Massachusetts (as of 2009)

- - main page - <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/land-protection-and-management/invasive-species/invasive-plants.html>
- <http://www.mass.gov/eea/docs/dfg/nhosp/land-protection-and-management/invasive-plant-facts.pdf>

Massachusetts Prohibited Plant List

- Effective January 1, 2009: The **importation, sale, and trade** of the plants listed below is banned.
- This ban also covers the **purchase and distribution of these plants and related activities**, and includes **all cultivars, varieties and hybrids** of the plants listed below.
- For more information about each species from the USDA PLANTS database, click on the common name.
- Download a print-ready version of this list by [Common Name](#) or by [Scientific Name](#).
- <http://www.mass.gov/eea/agencies/agr/farm-products/plants/massachusetts-prohibited-plant-list.html>

Vermont (as of 2013)

http://agriculture.vermont.gov/sites/ag/files/pdf/plant_protection_weed_management/noxious_weeds/NoxiousWeedsQuarantine.pdf

- **APPENDIX A: Designated Noxious Weeds**

(A) **Class A Noxious Weeds (11 species)**. – “movement, sale, **possession, cultivation**, and / or distribution” is prohibited -

(B) **Class B Noxious Weeds (28 species)**. – “sale, movement, and / or distribution” is prohibited -

- 21 species were prohibited immediately
- For 7 species (incl. **Burning bush, Japanese barberry, common barberry, & Norway maple**), “Specimens ... acquired prior to ... this rule may be sold or offered for sale until July 1, 2013.”

ACT NOW

before the **December 23, 2013** deadline

TELL DEC

(NY Dept. of Environmental Conservation)

to

PUT burning bush

on the

PROHIBITED list

of invasive species

WRITTEN COMMENTS DUE BY DEC 23

EMAIL to

New York State

Department of Environmental Conservation
or email invasivesregs@gw.dec.state.ny.us

MAIL to

Leslie Surprenant, NYS DEC,

Invasive Species Coordination Unit,

625 Broadway, Floor 5, Albany, NY 12233

SPEAK AT PUBLIC HEARING

Albany Monday December 16 at 3:00

DEC Central Office, Public Assembly Room (Floor 1)

625 Broadway

Albany, NY 12233

SOME INFO ABOUT REGULATING AND PROHIBITING INVASIVE PLANTS

Compiled by Tom Denny
Sustainable Saratoga's Urban Forestry Project
November 2013

tomdenny2010@gmail.com



www.sustainablesaratoga.org