Any properly identified employee of the Animal and Plant Health Inspection Service is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to destroy, or otherwise dispose of regulated articles as provided in sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731).
Testing is performed by the Agricultural Research Service of USDA as follows: In a greenhouse, the suspect plant, or test subject, is placed under a screen with a control plant, i.e., a known rust-susceptible variety of Berberis, Mahoberberis, or Mahonia, and their progeny, that have proven resistant to black stem rust during testing by the United States Department of Agriculture, and that are listed as rust-resistant under §301.38–2 (a)(1) and (a)(2).

Rust-resistant plants. All plants of the genera Berberis, Mahoberberis, and Mahonia not listed as rust-resistant under §301.38–2 (a)(1) and (a)(2).

Rust-susceptible plants. All plants of the genera Berberis, Mahoberberis, and Mahonia grown from seed and having less than 2 years’ growth.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory or possession of the United States.

Two years’ growth. The growth of a plant during all growing seasons of 2 successive calendar years.

§301.38–2 Regulated articles.
(a) The following are regulated articles:
(1) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant Berberis species and varieties.
   B. aggregata×B. wilsoniae ‘Pirate King’
   B. ‘Amstelveen’
   B. aridocalida
   B. beaniana
   B. buxifolia
   B. buxifolia nana
   B. calliantha
   B. candidula
   B. candidula ‘Amstelveen’
   B. candidulaxB. verruculosa ‘Amstelveen’
   B. cavallieri
   B. chenaulti
   B. chenaulti ‘Apricot Queen’
   B. circumserata
   B. concinna
   B. cozii
   B. darwini
   B. dasystachya
   B. dubia
   B. feddeana
   B. formosana
   B. franchetiana
   B. gagnepainii
   B. gagnepaini ‘Chenault’
   B. gigliana
   B. gladwynensis
   B. gladwynensis ‘William Penn’
   B. gyalica
   B. heterophylla
   B. horeathii
   B. hybrid-gagnepaini
   B. insignis
   B. integerrima ‘Wallichs Purple’
   B. julianae
   B. julianae ‘Nana’
   B. julianae ‘Spring Glory’
   B. koreana
   B. koreana×B. thunbergii hybrid ‘Bailsel’
   B. koreana×B. thunbergii hybrid ‘Tara’
   B. lempergiana
   B. lepidifolia
   B. linearifolia
   B. linearifolia var. ‘Orange King’
   B. lologensis

2Testing is performed by the Agricultural Research Service of USDA as follows: In a greenhouse, the suspect plant, or test subject, is placed under a screen with a control plant, i.e., a known rust-susceptible variety of Berberis, Mahoberberis, or Mahonia. Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100% humidity, causing the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80% relative humidity. This test procedure is repeated 12 times. If in all 12 tests, the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, USDA will declare the test plant variety rust-resistant. The tests must be performed on new growth, just as the leaves are unfolding.

3Permit and other requirements for the interstate movement of black stem rust organisms are contained in part 330 of this chapter.