

Nursery Licensing – Frequently Asked Questions

For Nursery Growers, Nursery Dealers, and Christmas Tree Growers



What is “nursery stock”?

Nursery stock means “plants and plant parts that can be propagated or grown, excluding seeds, sod, cranberry cuttings, annuals and evergreens grown for eventual harvest and sale as Christmas trees.” Nursery stock includes bulbs, shrubs, trees, and perennials. In simplest terms, nursery stock is any plant that can overwinter in Wisconsin.

What about the products that are excluded from nursery stock?

Christmas trees are covered under a Wisconsin Christmas Tree Grower License—which can be applied for on the same application form. A nursery license is not required for annuals, cranberry cuttings, or sod. If you are growing sod and would like more information about the Turf & Sod Program, please contact Liz Meils at (608) 516-7617 or Elizabeth.Meils@Wisconsin.gov. If you are labeling seed, contact Greg Helmbrecht at (608) 224-4596 or Greg.Helmbrecht@Wisconsin.gov for more information regarding the Seed Labeler’s Licensing Program. You do not need a nursery license with the Department to sell any amount of annual plants, cut flowers, harvested fruits/vegetables, or annual herbs.

What, exactly, is the difference between the 3 license types?

- **Nursery Dealer** is an applicant who buys nursery stock from a wholesaler or distributor, and resells the nursery stock. The nursery stock is usually sold the same season, and is not split, propagated, re-potted, planted to grow another season, or changed from the way it was purchased. A nursery dealer can also be someone like a landscaper who purchases, re-sells, and installs nursery stock. A person spading trees grown by someone else could also be a nursery dealer.
- **Nursery Grower** is an applicant who grows, plants, splits, or propagates nursery stock. This can be from seeds, seedlings, or adult plant material. The nursery stock is usually held at the grower’s location for at least a year. A nursery grower is usually someone who has fields, but it can also include applicants who grow plants in greenhouses, or in containers.
- **Christmas Tree Grower** is an applicant who grows and maintains evergreen trees for eventual sale as Christmas trees.

Note: you may need one, or any combination of these licenses.

Can I apply and pay for a nursery license online?

Yes! You can apply and pay online at: <https://mydatcp.wi.gov/>. You can apply for one, or any combination of licenses based on your operation. You have to apply for each license separately but can pay for them from one invoice. Licenses are annual and expire February 20th of each year.

A fillable word file is also available on our nursery webpage. If needed, a paper application can be requested by emailing DATCPnursery@wisconsin.gov or calling (608) 224-4574.

Can I go paperless for my nursery license?

All nursery license holders with an active MyDATCP account are now automatically opted-in to paperless licensing. You can apply and pay online at: <https://mydatcp.wi.gov/>. From your MyDATCP account, you can also access a PDF of your nursery license once it has been issued. While some DATCP licenses are required to be posted at the business location, the nursery license is not one of them. **To opt-out**, email DATCPnursery@wisconsin.gov or call (608) 224-4574. Be sure to include your license number in your message.

Expiration Notices are emailed out each November to remind you to renew for the following year.

I sell evergreen trees for both landscaping and for sale as Christmas trees. What license(s) do I need?

You would need both a Nursery Grower License for the trees sold for landscaping, and a Christmas Tree Grower License for the Christmas trees sold. You would calculate your fees for each license based on only the sales of each type of tree sold. This way, you are not overpaying, or paying twice to license the same trees.

I own a field that another person leases to grow Christmas trees. I do not maintain the evergreens grown there. I have nothing to do with the Christmas trees other than that I own the leased land. Do I need to

hold the Christmas Tree Grower License, or does the person who takes care of the trees need to hold the license?

The person who maintains the evergreen trees that will eventually be sold as Christmas trees needs to hold the license.

In the past, I held a Nursery Grower License and was able to sell Christmas trees under this license.

Can I still do this?

Not under a single license. You would now need to obtain a Nursery Grower License as well as a Christmas Tree Grower License.

How do I calculate my fees if I am applying for both a Nursery Grower License and Nursery Dealer License?

You would only use the sales of nursery stock that you grew last year to calculate the fees of the Nursery Grower License. You would use only the purchase amount of nursery stock that you bought for re-sale last year to calculate the fees for the Nursery Dealer License. Remember, when calculating your license fees do NOT include the sales or purchases of annuals, cut flowers, vegetables, mulch, stone, or other supplies. If you are a first time applicant, you may use your "best faith estimate" of the upcoming year's sales or purchases of nursery stock.

I had nursery stock sales of less than \$250 last year. Does that mean that I do not need a Nursery Grower License this year?

No. If you anticipate you will sell more than \$250 of nursery stock this year that you grew, then you need a license. Your previous year's sales only help you to determine the cost of your license, not whether or not you need one. If you know for sure that you will not have more than \$250 in sales this year, then you do not need a license this year.

Do I need a Plant Health Certificate or Phytosanitary Certificate?

Plant Health Certificate (PHC): A PHC is a reproducible document which can and should be sent with plant shipments that travel outside of Wisconsin or out of a quarantine. Many states require this certificate and will destroy, detain or refuse plants or plant material that is not accompanied by a PHC. Although we do not require this certificate, we strongly recommend obtaining one if you are shipping nursery stock out of Wisconsin.

Your plant health certificate can be copied and sent with every nursery stock invoice. If you know you need a PHC now, submit your \$50 payment along with your license application and fee. If you decide you need one later, call or email and request one and we will send an invoice to you.

Phytosanitary Certificate or "Phyto": A phyto is required to accompany each load of plants being shipped to other countries. We also recommend a phyto if you ship to California. This certificate is issued after you fill out an application requesting one. Each phyto charge is \$56 and covers one shipment. Phytosanitary Certificates cannot be copied. Apply for a phyto online at: <https://pcit.aphis.usda.gov/pcit/>

For a list of all U.S. state and territory plant laws and regulations visit the National Plant Board website: <https://www.nationalplantboard.org/>

How do I apply for a PHC?

You may apply for a PHC in Section 6 on your license application form (just above the 'Total Amount Due' heading). Add the \$50 PHC fee to your applicable license fees. Send all forms, any attached sheets, and payment to: WDATCP, Box 93598, Milwaukee WI 53293-0598. You may also apply and pay online at: <https://mydatcp.wi.gov/> or by calling (608) 224-4574 any time of the year.

When will I receive my PHC?

Nursery stock PHCs are issued and emailed at the same time as your Nursery License. If you applied by paper, you will receive your PHC in the mail. Christmas Tree PHCs are issued and mailed out in September.

Can I get a Plant Health Certificate without a license?

Yes, but. If you do not plan to have more than \$250 in nursery stock sales for this year, then you are not required to obtain a nursery license and you will not be issued one. *However*, if you need to ship plant materials out of Wisconsin you may still apply for a Plant Health Certificate (PHC). Contact us to schedule an inspection of the material. The fee for a PHC is \$50. Email: DATCPnursery@wisconsin.gov or call: (608) 224-4574.

I am a Nursery Dealer who holds a few of my nursery stock plants over winter. Do I need a Nursery Grower License?

No. It is acceptable for Nursery Dealers to hold some stock over winter, or even to “heel-in” the stock for the winter. Heeling-in means to place a small amount of mulch over a plant keeping the nursery stock shallow and not fully rooting the plants. This keeps the plants from drying out during storage time. It is not considered growing or propagation, but merely keeping the nursery stock alive.

Do I need a Christmas Tree Grower License to just buy and re-sell cut Christmas trees?

No. You only need the Christmas Tree Grower License if you are growing and selling Christmas trees. You do not need a Christmas Tree Grower license to buy and re-sell cut Christmas trees or to operate a Christmas tree lot.

My operation changed and now I need another license. Do I need to resubmit my Social Security information for a new nursery license when I already gave it for the first license I obtained?

No. You should not need to resubmit this information if it is already on file and encrypted in our system.

My spouse and I are applying together as partners, and I checked the partnership box as our business type. Do I need to supply more information? Have I completed this correctly?

The partnership box is for legally formed partnerships only. Two married persons applying jointly for a license would still apply as an individual/sole proprietor/Married Couple applicant. Only married couples can apply jointly. Make sure to list both names on the form. You must send the Social Security information for both applicants when first applying, or when changing the applicant information in any way.

Legally formed partnerships have to provide the first and last page of a legally drafted partnership agreement as documentation (pages with partnership name, applicants, and signatures).

I sell evergreen wreaths or roping. Do I need any of the nursery licenses?

No. You are not required to hold a license for this type of business, but many people who ship out of state will still need a Plant Health Certificate (PHC), or a federal compliance agreement with the USDA.

Do I need a license if I plant cuttings from my own plants for sale?

Yes. If you propagate, reproduce, split, or grow nursery stock from cuttings, bulbs, divisions, seeds, or seedlings, and your annual sales of those plants exceed \$250, you need a Nursery Grower License.

I do not have fields. I have all my plants in containers and in a greenhouse. Do I still need a license? If I do need a license, how do I list my “acreage” on the form when I do not actually have acreage?

Yes. You still need a license if you grow and sell nursery stock. Section 5 of the nursery license application lists items that you could grow along with an area to list the number of acres for each item. If you have container stock, or a greenhouse, you can list the number of acres as .001. Here are some conversions to help you:

$\frac{3}{4}$ acre = .75 $\frac{1}{2}$ acre = .50 $\frac{1}{4}$ acre = .25 $\frac{1}{8}$ acre = .125 $\frac{1}{16}$ acre = .0625

How do I know which license(s) I need?

You need a Nursery Grower License to grow and sell more than \$250 annually of the following perennials:		
Aquatic plants	Native grasses	Rhizomes
Bulbs	Perennials	Shrubs
Fruit trees	Perennial herbs	Trees
You do not need a Nursery Grower License to grow or sell any amount of the following:		
Annuals	Harvested fruits	Most herbs
Cut flowers	Harvested vegetables	Most vegetable starts
You need a Nursery Dealer License if you buy more than \$250 annually for resale of the following perennials (including installation for landscaping):		
Bulbs	Perennial Aquatic Plants	Rhizomes
Fruit trees	Perennials	Shrubs
Native grasses	Perennial herbs	Trees

You do not need a Nursery Dealer License to buy and resell any amount of the following:		
Annuals	Harvested fruits	Most herbs
Cut flowers	Harvested vegetables	Most vegetable starts
You do not need a Christmas Tree Grower License to grow and sell, or buy and resell any amount of the following:		
Evergreen cuttings	Evergreen roping	Evergreen wreaths
You need a Christmas Tree Grower License to grow and sell more than \$250 annually of evergreen trees for eventual harvest and sale as Christmas trees.		
You do not need a Christmas Tree Grower License to buy and resell any amount of cut Christmas trees.		

Note: you may need one, or any combination of these licenses depending on your operation.

What else might I need in addition to a Nursery License?

If you do any of the following, please contact us to set up a compliance agreement:

- Ship woody stock (within the state) from a Spangy Moth quarantine county to a non-quarantined county
- Import hemlock stock from a Hemlock Woolly Adelgid (HWA) area
- Import plants/wood products from a Thousand Cankers Disease (TCD) area
- Import plants/wood products from a Mountain Pine Beetle (MPB) area
- Ship stock west of Minnesota (*exemption for bare root stock*)

I cannot read legal jargon. What does the nursery law say in plain English?

Definitions

- **Christmas Tree Grower** is a person who grows evergreens that will be sold as Christmas trees.
- **Nursery** is a place in Wisconsin where a person grows, or propagates nursery stock for sale.
- **Nursery Grower** is someone who operates a nursery and grows, or propagates nursery stock. This includes stock grown from seed, seedlings, in containers, in greenhouses, in plots, in fields, or cuttings.
- **Nursery Dealer** is anyone who purchases nursery stock for resale. This includes landscapers who supply and install nursery stock.
- **Nursery Stock** is any plant or plant part that is grown or propagated that can live through a Wisconsin winter outdoors. Nursery stock excludes: seeds, sod, cranberry cuttings, annuals, or Christmas trees.
- **Officially Inspected Source** is a licensed Nursery Grower or Nursery Dealer in Wisconsin, or a source outside of Wisconsin that the Department recognizes. i.e. a licensed nursery in another state.

Requirements

- **Get a license if you need one.** Nursery Dealers, Nursery Growers and Christmas Tree Growers are required to obtain an annual license from the Department each year if they are not exempt (see exemptions). These licenses expire on the 20th of February each year. Licenses are nontransferable.
- **Use our forms.** License applicants must apply for a license on a form provided by the Department.
- **Complete your application.** Applicants must complete all sections of the license application form.
- **Keep good records.** It is required for nursery license applicants to retain records of the receiver, quantity, and type of nursery stock in shipments for at least three years. These records must be made available to the Department upon request.
- **Label it.** Retail nursery stock must be labeled with the common or botanical name of the nursery stock.
- **Do not buy nursery stock from unlicensed sources, and do not accept unlabeled shipments.** Nursery Growers and Nursery Dealers may not ship out or accept shipments of nursery stock unless they are labeled with the name and address of the seller or distributor, and certification that they are an officially inspected source. Nursery licensees must immediately report all unlabeled shipments to the Department.
- **Take care of your plants.** Nursery Growers and Nursery Dealers must maintain the facilities or grounds where all nursery stock is held for sale to ensure the healthy condition of nursery stock prior to sale.
- **Do not sell sick or infested plants.** Nursery Dealers and Nursery Growers must make reasonable examinations of their nursery stock to be sure that it is free from injurious pests or diseases, and that it is capable of reasonable growth.

Fees

- A surcharge equal to one year's license fee is required when the Department determines that any nursery applicant was actively operating as an unlicensed Nursery Dealer, Nursery Grower, or Christmas Tree Grower 365 days before an application was submitted to the Department.
- Nursery Dealer fees are based on the applicant's gross annual purchases of nursery stock during the previous fiscal year. If it is the applicant's first year in business, they must make a good faith estimate of the purchases

for the year in which they are applying.

- Nursery Grower and Christmas Tree Grower License fees are based on the applicant's gross annual sales of nursery stock during the previous fiscal year. If it is the applicant's first year in business, they must make a good faith estimate of the anticipated sales for the year in which they are applying.

Exemptions

- An applicant does not need a nursery license if their retail sales of nursery stock total less than \$250 annually.
- An applicant does not need a nursery license if they sell nursery stock for the benefit of a registered nonprofit organization, for no longer than seven consecutive days.

Recommendations for Nursery Dealers

- **Make sure you have good sources.** Nursery Dealers may not buy, sell, hold, or offer to sell nursery stock from anyone other than an officially inspected source.
- **Be honest.** Nursery Dealers may not represent themselves as a Nursery Grower or vice versa.

Recommendations for both Nursery Dealers and Nursery Growers

- **Do not spread diseases or pests!** Nursery Dealers and Nursery Growers may not sell, offer for sale, or distribute nursery stock that they know, or have reason to suspect, is infested with any plant pests or diseases that could be spread to other plants.
- **Only sell healthy plants.** Nursery Dealers and Nursery Growers may not sell, offer for sale, or distribute plants that they know or suspect will not survive or grow.
- **Be honest.** Do not make false claims in advertising or sale of your nursery stock. Make sure that the name, variety, origin, grade, quality, and hardiness is exactly what you represent them to be.
- **Be forthright.** Do not conceal any nursery stock to avoid inspection by the Department. Do not falsify any records, or make any misleading statements to the Department.

Inspections

- The Department may inspect the premises in which you grow, hold, heel-in, or sell your nursery stock or Christmas trees.
- Nurseries selling stock out of state are inspected annually, nurseries selling locally are inspected at least every 3 years, or less, as time allows.

Orders

An authorized agent of the Department can order a Nursery Grower or Nursery Dealer to do any of the following:

- Temporarily hold nursery stock until inspection.
- Remedy any violations of Wisconsin Statutes regarding nursery stock.
- Refrain from importing weeds or pests that could harm the environment in Wisconsin.
- Permanently withhold nursery stock from sale or distribution if the sale or distribution goes against Wisconsin Statutes, or department orders, regarding nursery stock licensure.
- Destroy, or return without compensation, any nursery stock that is sold, or distributed, that violates Wisconsin Statutes or department orders if the violation cannot be remedied otherwise.

Hearings

Any person, who has been issued an order by the Department, can request an informal hearing regarding the order within 10 days unless the recipient of the order agrees to a later date. If a contested matter is not resolved at the informal hearing, the recipient of the order is entitled to a class 2 contested case hearing under Ch. 227, Wis. Stats.

Reciprocal Agreements

The state of Wisconsin has reciprocal agreements with other states. This means that other states in the US will recognize you as an officially inspected source if you hold a valid Wisconsin Nursery Grower License, Nursery Dealer License, or Christmas Tree Grower License, and that the Department may recognize licensed sources of nursery stock in other states as officially inspected sources.

DATCP Plant Industry Bureau - Nursery Program

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(608) 224-4574 or (608) 516-7617

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