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United States Department of Agriculture

PLANT QUARANTINE AND CONTROL ADMINISTRATION

SERVICE AND REGULATORY ANNOUNCEMENTS

APRIL–JUNE, 1932

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INTRODUCTORY NOTE

The Order covering admission of the avocado or alligator pear under restriction, issued February 27, 1914, effective March 15, 1914, was designed to prevent introduction into the United States of the avocado weevil by means of avocado fruit from Mexico and the countries of Central America.

There was also issued on the same date, effective that date, February 27, 1914, Notice of Quarantine No. 12 (Foreign), Avocado Seed Quarantine, prohibiting the entry of avocado seed, with the same purpose, and from the same countries.

The above-named order issued under authority of section 5 of the plant quarantine act had the effect of bringing the fruit of the avocado or alligator pear under the provisions of sections 1–4 of the act, under which sections avocado nursery stock, under the terms of the act itself, was already restricted, importation being subject to the rules and regulations for carrying out the plant quarantine act, issued May 26, 1913, and published as Circular 44 of the Office of the Secretary.

In order to provide rules and regulations to govern entry of the newly restricted fruit of the avocado, and the better to regulate the avocado nursery stock already under restriction, there was issued on the same day as the above-mentioned order and Quarantine No. 12 and effective that date (February 27, 1914), Regulations Governing the Importation of Avocado Fruit and Nursery Stock into the United States, under the provisions of the order of the Secretary of Agriculture, issued February 27, 1914. These regulations were to be considered and read as a part of the Regulations for carrying out the plant quarantine act, issued May 26, 1913.

It is to be noted that the nursery stock, plant, and seed quarantine (Notice of Quarantine No. 37, issued November 18, 1918, effective June 1, 1919), and the fruit and vegetable quarantine (Notice of Quarantine No. 56, promulgated August 1, 1923, effective November 1, 1923), did not come into existence for a number of years after the establishment of these restrictions on avocado fruit and the concurrent promulgation of regulations on both this fruit and avocado nursery stock. It may be assumed, therefore, that during this intervening period these restrictive measures served a useful purpose.

However, after some years of experience with the fruit and vegetable quarantine, No. 56, and the nursery stock quarantine, No. 37, it would appear that these measures have so well proved their worth as a means of protection against injurious foreign insects and diseases that the maintenance of the special avocado-fruit order of 1914 seems unnecessary. The department is convinced that the protection afforded by that order and its regulations can be equally well secured by the provisions of these two quarantines.

It is proposed, therefore, to revoke the avocado-fruit order of February 27, 1914, together with its concurrent regulations, thus allowing the fruit of this tree to revert automatically to the status of other fruits under the fruit and vegetable quarantine, No. 56, while the avocado nursery stock would similarly fall under the provisions of the nursery stock, plant, and seed quarantine, No. 37.

For the present the avocado seed quarantine, No. 12, is being left in effect.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

NOTICE OF LIFTING OF THE AVOCADO FRUIT ORDER AND ITS CONCURRENT REGULATIONS

(Effective on and after July 1, 1932)

I, Arthur M. Hyde, Secretary of Agriculture, pursuant to the provisions of the plant quarantine act of August 20, 1912 (37 Stat. 315), do hereby revoke the order of the Secretary of Agriculture, promulgated February 27, 1914, and effective March 15, 1914, covering admission of the fruits of the avocado or alligator pear under restriction, together with the regulations issued thereunder, such revocation to become effective July 1, 1932.

Done at the city of Washington, this 22d day of June, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.]

ARTHUR M. HYDE,
Secretary of Agriculture.

ANNOUNCEMENT RELATING TO CITRUS-CANKER QUARANTINE (NO. 19)

MODIFICATION OF QUARANTINE ON ACCOUNT OF THE CITRUS CANKER AND OTHER CITRUS DISEASES

INTRODUCTORY NOTE

It has recently been established that seeds of citrus fruits, when freed from pulp, can be successfully treated with hydrogen peroxide so as to eliminate the danger of introducing on them the citrus canker disease due to *Bacterium citri* Hasse. It seems no longer necessary, therefore, to maintain a prohibitory quarantine against these seeds. The present modification of Notice of Quarantine No. 19 is designed to release citrus seeds from their prohibited status thereunder, after which they will automatically come under the provisions of quarantine No. 37, and, under the provisions of regulations 3 and 9 of that quarantine, they will be allowed entry under permit, at specified ports, if free from pulp, and subject to disinfection under departmental supervision.

This modification of Notice of Quarantine No. 19 will thus provide merely for the release of citrus seeds from a prohibited to a restricted status.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

MODIFICATION OF NOTICE OF QUARANTINE NO. 19

(Approved June 22, 1932; effective July 1, 1932)

Whereas, the Secretary of Agriculture, on December 10, 1914, in order to prevent the introduction into the United States of citrus canker and other citrus diseases, did, by Notice of Quarantine No. 19, issued on said date, promulgate his determination that it was necessary to forbid the importation into the United States of all citrus nursery stock, including buds, scions, and seeds from the foreign countries and localities specified therein;

Now, therefore, I, Arthur M. Hyde, Secretary of Agriculture, under the authority given in section 7 of the plant quarantine act of August 20, 1912 (37 Stat. 315), do hereby withdraw said promulgation, in so far as it covers citrus seeds; it being the intent and purpose hereof to leave unchanged the prohibition in said Notice of Quarantine No. 19, as to the importation of all the plants and plant products named therein, except citrus seeds, and by amendments made this day to regulations 3 and 9 of Notice of Quarantine No. 37, to provide for the importation under restriction of the citrus seeds which have been hereby released from the prohibition of Notice of Quarantine No. 19.

This modification shall be effective on and after July 1, 1932.

Done at the city of Washington, this 22d day of June, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.]

ARTHUR M. HYDE,
Secretary of Agriculture.

ANNOUNCEMENT RELATING TO EUROPEAN CORN-BORER QUARANTINE (NO. 43)

INSTRUCTIONS TO POSTMASTERS

POST OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER GENERAL,
Washington, D. C., May 9, 1932.

POSTMASTER:

MY DEAR SIR: Inclosed is a copy of a revision of the European corn-borer quarantine and regulations (Quarantine Order No. 43 of the United States Department of Agriculture) effective February 5, 1932.

The principal changes are set forth in the Introductory Note. Please read the Introductory Note, as well as the remainder of the quarantine order, and

be governed accordingly. See paragraph 1, section 467, Postal Laws and Regulations.

Very truly yours,

F. A. Tilton,
Third Assistant Postmaster General.

ANNOUNCEMENT RELATING TO GIPSY-MOTH QUARANTINE (NO. 45)

P. Q. C. A.—334. May 10, 1932.

NURSERY STOCK CERTIFICATION UNDER GIPSY-MOTH QUARANTINE

(Revision of Circulars HB–174 and HB–179)

Paragraph (*b*) of regulation 6 supplemental to Notice of Quarantine No. 45 reads in part as follows:

"With respect to nursery-grown stock, Federal inspection and the issuance of Federal certificates authorizing the interstate movement of nursery products will be conditioned on the presentation of a valid State certificate stating that the nursery in question has been inspected by a State nursery inspector and certifying that it is apparently free from infestation with gipsy and brown-tail moths. * * * Whenever any nursery or independent unit thereof in the regulated area, or any shipment therefrom, is reported by a State inspector to be appreciably infested with either the gipsy moth or the brown-tail moth, or whenever such infestation is determined by a Federal inspector on his examination of material offered for shipment, further certification for interstate movement from such nursery, or independent unit thereof, will be refused until such nursery has been freed from infestation and has been again inspected and certified by the State to be apparently clean."

In enforcing the restrictions quoted the term "appreciable infestation" will be interpreted to mean such infestation as in the judgment of the inspector involves danger that gipsy-moth egg masses may escape attention and be shipped to uninfested localities.

The previous practice of automatically refusing further Federal certification immediately upon the discovery of a single egg mass by a Federal inspector will be discontinued.

It will be necessary as heretofore for nurserymen to cooperate with the department by effectively cleaning up and spraying the nursery premises and adjoining territory where conditions require, and preventing their nurseries from becoming subject to infestation. Any laxity in the maintenance of such a program or any appreciable establishment of infestation on the nursery stock will as heretofore result in the refusal of certificates for interstate movement until after the nursery premises have been cleaned up and have been reinspected and recertified by the State nursery inspector.

Lee A. Strong,
Chief, Plant Quarantine and Control Administration.

ANNOUNCEMENTS RELATING TO JAPANESE-BEETLE QUARANTINE (NO. 48)

P. Q. C. A.—333.

April 15, 1932.

SUPPLEMENT NO. 6 TO INSTRUCTIONS TO INSPECTORS ON THE DISINFECTION OF NURSERY PRODUCTS FOR THE JAPANESE AND ASIATIC BEETLES

FIELD TREATMENT WITH CARBON DISULPHIDE EMULSION

Section D of Circular P. Q. C. A.—224, as revised on February 8, 1930, by Circular P. Q. C. A.—265, is hereby further revised to read as follows:

DISINFECTION OF SOIL ABOUT THE ROOTS OF PLANTS

D. CARBON DISULPHIDE EMULSION—FIELD TREATMENT

The basis of certification of field nursery plants treated with miscible carbon disulphide shall be: (1) That the concentrated stock solution shall either be freshly mixed carbon disulphide and castor-oil soap in the proper concentration

or determined by analysis as being of the proper concentration. (2) That all six conditions (p. 33) governing the application of the treatment have been met.

Material.—Use 50 per cent miscible carbon disulphide.

Caution.—Miscible carbon disulphide and carbon disulphide emulsion are inflammable, and the same care should be exercised in handling them as in handling carbon disulphide.

Equipment.—Strips of 24-gage galvanized iron 10 inches wide and of the proper length are required. (Table 1.)

TABLE 1.—*Size of collar*

Diameter of ball to be dug	Diameter of cellar	Length of collar	Diameter of ball to be dug	Diameter of cellar	Length of collar
Inches	*Inches*	*Feet*	*Inches*	*Inches*	*Feet*
12 or less	18	5½	24	36	10½
14	21	6½	25–27	39	11½
18	27	8	28–30	42	12
20	30	9	33	45	13
22	33	9½	36	48	14

Condition of plants.—Dilute carbon disulphide is least injurious to roots when the plants are dormant or semidormant, and treatment should be applied at that time.

Dosage.—The dilution depends upon the probable temperature of the soil during the 48 hours following application, and may be determined from Table 2.

TABE 2.—*Dosage for different soil temperatures*

Minimum soil temperature 6 inches below the surface	Miscible carbon disulphide per 10 gallons of water
	Cubic centimeters
40°-50° F.	68
50°-60° F.	57
60°-70° F.	45

The concentration of the emulsion must not be greater than is necessary, as this may injure the plants.

The dosages which must be applied under different conditions are given in Table 3 or Table 4.

TABLE 3.—*Dosage for circular collars*

Diameter of collar	Water	Miscible carbon disulphide for temperature of—		
		40°–50° F.	50°–60° F.	60°–70° F.
Inches	*Gallons*	*Cubic centimeters*	*Cubic centimeters*	*Cubic centimeters*
12	2.0	14	11	9
15	3.0	20	17	14
18	4.5	31	26	20
21	6.0	41	34	27
24	8.0	55	45	36
27	10.0	68	57	45
30	12.0	82	68	54
33	15.0	102	85	68
36	17.5	119	99	80
39	21.0	143	119	95
42	24.0	164	136	108
45	27.5	187	156	125
48	31.5	215	179	143

TABLE 4.—*Dosage for square collars*

Length of side of collar	Water	Miscible carbon disulphide for temperature of—		
		40°–50° F.	50°–60° F.	60°–70° F.
Inches	*Gallons*	*Cubic centimeters*	*Cubic centimeters*	*Cubic centimeters*
12	2.5	17	14	11
15	4.0	27	23	18
18	5.5	37	31	25
21	7.5	51	43	34
24	10.0	68	57	45
27	12.5	85	71	57
30	15.5	106	88	70
33	19.0	129	108	86
36	22.5	153	128	102
39	26.0	177	148	118
42	30.5	208	173	139
45	35.0	238	199	159
48	40.0	272	227	182

Temperature of the soil.—Begin treating in the spring when the minimum soil temperature at a depth of 6 inches remains above 40° F., using 68 c c of miscible carbon disulphide to 10 gallons of water. When the minimum soil temperature at this depth remains above 50°, decrease the concentration to 57 c c to 10 gallons. When the minimum soil temperature remains above 60°, decrease the concentration to 45 c c to 10 gallons. In the autumn, as the minimum temperature of the soil decreases, it is necessary to increase the concentration in the opposite order. Treatment must be discontinued when the minimum soil temperature at the 6-inch depth is below 40°.

For the treatment to be successful the temperature of the soil during the 48-hour period of treatment should never fall below the minimum temperature for the dosage being used, as shown in Tables 3 and 4. A map has been prepared of the different townships of the northern and middle Atlantic seaboard States, based upon data from the United States Weather Bureau, which indicates the probable dates when the soil temperature at a depth of 6 inches will not fall below 40° F. The inspector should obtain from the treating division headquarters information on this point with respect to the area in which he is working. The dates for the minimum temperature are shown in Table 5. Treatment may be started on the date given in the first column, and the dosage should be changed accordingly.

TABLE 5.—*Minimum temperature dates*

Zone No.	Spring temperature			Autumn temperature		
	40° F.	50° F.	60° F.	60° F.	50° F.	40° F.
1	Mar. 4	Apr. 19	May 19	Oct. 11	Nov. 4	Dec. 11
2	Mar. 11	do	do	do	do	Do.
3	Mar. 19	Apr. 27	May 27	Oct. 4	Oct. 27	Nov. 27
4	Mar. 27	do	do	do	do	Do.
5	Apr. 4	May 4	June 4	Sept. 27	Oct. 19	Nov. 19
6	Apr. 11	May 11	June 11	do	do	Do.
7	Apr. 19	May 19	June 27	Sept. 19	Oct. 11	Nov. 11
8	Apr. 27	do	do	Sept. 11	Oct. 4	Nov. 4
9	May 4	May 27	July 11	Aug. 27	Sept. 27	Oct. 27
10	May 11	June 4	July 19	Aug. 19	do	Do.

The inspector must keep an accurate record of the minimum soil temperatures at a depth of 6 inches throughout the season. An accurate thermometer graduated in at least single degrees must be used. The temperatures must be taken between 6 a. m. and 8 a. m. each morning in order to obtain the minimum temperature. This must be done in the nursery plots or beds from which the plants are being taken. If the soil temperature in the spring has not reached

40° F. by the date in column 1, treatment must be delayed until this point is reached.

Preparation of plant for treatment.—Remove all weeds and débris from the soil about the plant. Tie low-hanging branches so they will not dip into the solution. Level the soil. After the size of the mass of soil to be lifted has been determined, place a galvanized-iron collar about the plant and force it 3 inches into the soil. The size of the collar to be used is shown in Table 1. Firm the soil carefully on each side of the metal.

Application.—Measure the diameter of the collar, find from Table 3 or Table 4 the number of gallons of water and the cubic centimeters of miscible carbon disulphide required, and mix with a stick. Pour into the collar, avoiding splashing or unnecessary disturbance of the soil.

Period of treatment.—The collar and the soil must not be disturbed for 48 hours. The plant must be dug between two and five days after treatment.

Handling after treatment.—The plant may be dug and handled according to the usual nursery practice, except that no soil outside the collar must be taken up with it.

CONDITIONS UNDER WHICH THE CARBON DISULPHIDE TREATMENT MAY BE APPLIED

1. The minimum soil temperature 6 inches below the surface in the nursery must be 40° F. or higher for the 48-hour period immediately following the application of the carbon disulphide emulsion.
2. The surface of the soil around the base of the plant to be treated must be level and the treatment must not be applied where the ground has a slope of more than 1 inch in 10 inches.
3. The collars must be carefully placed in strict accordance with the directions in order to assure that no seepage occurs. Especial care must be taken on plowed and stony land to prevent loss of the solution.
4. An examination of the soil must be made by digging to a depth of at least 12 inches, outside of the collar, to determine whether a hardpan of clay, rock formation, high-water table, newly transplanted plant, mole hole, or other unfavorable condition is present which would prevent the proper penetration of the solution.
5. A record must be made of the time of penetration of the solution on each plant treated. If the solution disappears from the surface in less than 10 minutes or requires more than 5 hours the treatment will not be successful.
6. An examination must be made during the treatment and after the solution has disappeared to determine the uniformity of penetration. Uniform penetration must be obtained.

LEE A. STRONG,
Chief of Administration.

UNITED STATES TO MAINTAIN JAPANESE-BEETLE QUARANTINE

(Press notice)

JUNE 7, 1932.

Lee A. Strong, Chief of the Plant Quarantine and Control Administration, announced to-day that the United States Department of Agriculture has decided to continue the Federal regulations to prevent the spread of the Japanese beetle.

A conference was held in March to consider the possible revocation of this and other quarantines. Representatives from 28 States, the District of Columbia, and the Dominion of Canada attended. Among those present were commissioners of agriculture, State entomologists, or quarantine officers of the States and countries mentioned, in some cases all three; the official representatives of the National Association of Commissioners, secretaries and departments of agriculture; representatives of the American Association of Nurserymen; the Eastern Nurserymen's Association; the Long Island Nurserymen's Association; the Western Plant Quarantine Board; the National Plant Board; the Southern Plant Board; the New England Nurserymen's Association; the Society of American Florists and Ornamental Horticulturists; the New York Florist Club; the Crop Protection Institute; the Ohio Nurserymen's Association; the National Canners Association; a number of nurserymen not officially representing associations; newspaper reporters and editors; and Members of Congress.

The meeting afforded a full opportunity for anyone present to express his opinion as to the advisability of removing the Federal quarantine on account of the Japanese beetle.

The sentiment was almost unanimous that the Federal quarantine restrictions should be maintained. The National Association of Commissioners of Agriculture, the Society of American Florists and Ornamental Horticulturists, and the representatives of each of the nurserymen's and florists' organizations, almost without exception, expressed themselves as favoring this action. The American Nurserymen's Association, for example, stated that:

"The continued spread of these four pests (the Japanese beetle and three others under consideration) has not as yet been so extensive as to justify the discontinuance of the several quarantines. On account of the relatively small territory so far infested by these several pests, the advantages of maintaining the Federal quarantines amply justify the cost of administration. It is very doubtful that the States can provide the necessary protection to the country at large as effectively, advantageously, and economically as the Federal Government."

The State departments of agriculture of the States outside of the infested territory expressed themselves as being particularly anxious for the maintenance of Federal protection against the introduction of the Japanese beetle, and stated that they were not yet ready to assume the responsibility and work of preventing the introduction of this pest.

Although the representatives of the commissioners of agriculture of the infested States presented a different point of view, they similarly agreed that it was advantageous for the Federal Government to maintain the restrictions and carry the general responsibility for protective measures.

In considering the subject since the conference the department has reached the conclusion that it will be more advantageous and economical in the long run for the Federal Government to continue the program of scouting, quarantine enforcement, and the certification of restricted products than it would be for the individual States to undertake the work. It would also be practically impossible for the States to maintain uniformity of requirement and to cover the borders of the infested area with uniform efficiency to determine the rate of natural spread. It is therefore believed that the spread of the beetle could not continue to be retarded effectively if the Federal quarantine were removed.

The present distribution of the Japanese beetle extends from eastern and northern Virginia through considerable parts of Maryland, Pennsylvania, and eastern New York, and all of New Jersey, Delaware, Connecticut, and Rhode Island to southeastern Massachusetts. The insect feeds in the adult stage on a wide variety of fruit trees and ornamental plants, and in the larval or grub stage is a pest of lawns and golf greens. During the past 15 years or so it has spread about 300 miles from the point of original introduction in New Jersey, but isolated outbreaks in other parts of the United States have been minimized by restrictions on the shipment of plants, fruits, vegetables, and soil from the regulated areas. In some cases beetles have been carried to considerable distances on trains and boats, and such outlying local infestations of limited extent have been the subject of intensive eradication work.

ANNOUNCEMENT RELATING TO NARCISSUS-BULB QUARANTINE (NO. 62)

MODIFICATION OF NARCISSUS-BULB QUARANTINE REGULATIONS

INTRODUCTORY NOTE

The following amendment to the narcissus-bulb quarantine regulations eliminates the requirement of fumigation on account of lesser bulb fly (*Eumerus* spp.) infestation. The certification of bulbs as free from infestation is also authorized on the basis of the warehouse inspection where the planting has not been examined during the growing season, provided the Plant Quarantine and Control Administration issues a special approval of that procedure based on evidence of an intensive inspection of the bulbs in storage by inspectors competent to discover eelworm infestations in such dormant bulbs.

The specific designation of treatment methods is removed from the quarantine regulations themselves and will be issued in the form of administrative instructions. This change is made for the purpose of rendering the regulations more flexible and more easily subject to modification when further research work results in the development of improved methods.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

AMENDMENT NO. 1 TO REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 62

(Approved May 20, 1932; effective June 20, 1932)

Under authority conferred by the plant quarantine act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulation 3 of the revised rules and regulations supplemental to Notice of Quarantine No. 62, which were promulgated on April 9, 1928, be, and the same is hereby, amended to read as follows:

REGULATION 3. CONDITIONS GOVERNING THE ISSUANCE OF PERMITS

Permits authorizing the interstate movement of narcissus bulbs may be issued by an inspector either (*a*) without treatment on determination that they are free from infestation [see section (*a*)], or (*b*) on condition that they have been treated as prescribed by the Plant Quarantine and Control Administration [see section (*b*)].

(*a*) *Permits issued without treatment.*—Permits may be issued for the interstate movement of narcissus bulbs without treatment on determination by the inspector that the bulbs concerned and the planting in which they were grown are free from infestation with greater bulb flies and with eelworms. Such determination shall be based on one or more inspections of the growing narcissus in the field at or shortly after the close of the blossoming period and before the maturity and shriveling of the foliage, followed by inspection of the dormant bulbs in storage: *Provided*, That the Plant Quarantine and Control Administration may authorize the issuance of permits in the absence of a field inspection in special cases where an intensive storage inspection of the bulbs to be shipped and of the other bulbs in the same planting by inspectors competent to determine bulb-fly and eelworm infestation in such stored bulbs, shows freedom from infestation. Infestation with lesser bulb flies will not make the bulbs concerned ineligible for permits under this regulation.

(*b*) *The issuance of permits based on treatment.*—Permits may be issued for the interstate movement of narcissus bulbs which have been found infested with greater bulb flies or with eelworms or which have not been given the inspection prescribed in section (*a*) hereof, on condition that the bulbs concerned shall have been given such treatment under the supervision of an inspector as may be authorized by the Plant Quarantine and Control Administration to eliminate infestation. In the event that equipment approved for the treatment prescribed in this regulation is not available within the State where the bulbs are grown, permits may be issued by the Plant Quarantine and Control Administration for the movement of such bulbs to a near-by State for treatment. Permits may be refused as to any lot of bulbs found by the inspector to be so heavily infested with greater bulb flies or eelworms that treatment would not in his judgment free them from infestation.

(*c*) *Narcissus-producing areas.*—Any State may require, for the purpose of providing special protection for designated narcissus-producing areas, the treatment of all narcissus planted in or transported to such areas, whether interstate or intrastate, and while such a requirement is in effect the shipment of narcissus into such areas under a Federal permit issued under these regulations shall not render the bulbs concerned exempt from such treatment as a condition of planting in the said designated areas.

(*d*) *Infestations discovered after shipment.*—Whenever narcissus bulbs which are being or have been moved interstate are discovered en route or at destination to be infested with greater bulb flies or eelworms, any permit or certificate

accompanying them is automatically cancelled. Such bulbs may be returned to the shipper or treated at destination or elsewhere as may be required by the inspector representing the United States Department of Agriculture in the State of destination.

(*e*) *Condition of bulb plantings.*—Bulbs grown in fields which are so weedy that inspection is impracticable, will not be inspected, and treatment may be required as a condition for the issuance of permits for such bulbs.

(*f*) Based on the inspection required herein, the inspector designated for the State concerned will issue to each grower a certificate either of inspection (Form 388) or disinfection (Form 389), and such number of shipping permits (Form 391) based thereon as may be necessary for the movement of the crop certified. Such certificates will be issued only for the bulbs which have actually been inspected by the inspector, and the use of such certificates in connection with bulbs which have not been inspected as provided in this regulation is prohibited.

This amendment shall be effective on and after June 20, 1932.

Done at the city of Washington, this 20th day of May, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.]

R. W. DUNLAP,
Acting Secretary of Agriculture.

[The foregoing amendment was sent to all common carriers in the United States.]

NOTICE TO GENERAL PUBLIC THROUGH NEWSPAPERS

UNITED STATES DEPARTMENT OF AGRICULTURE,
PLANT QUARANTINE AND CONTROL ADMINISTRATION,
Washington, D. C., May 20, 1932.

Notice is hereby given that the Secretary of Agriculture, under authority conferred on him by the plant quarantine act of August 20, 1912 (37 Stat. 315), as amended, has promulgated an amendment to the revised rules and regulations supplemental to Notice of Quarantine No. 62, on account of certain injurious narcissus pests, effective June 20, 1932. This amendment eliminates the requirement of fumigation on account of lesser bulb fly (*Eumerus* spp.) infestation; authorizes the certification of bulbs as free from infestation on the basis of warehouse inspection, under certain conditions prescribed in the regulations; and makes other changes in the regulations governing the interstate movement of narcissus bulbs. Copies of said amendment may be obtained from the Plant Quarantine and Control Administration, Washington, D. C.

R. W. DUNLAP,
Acting Secretary of Agriculture.

[Published in the following newspapers: The News, Birmingham, Ala., May 31, 1932; the Republican, Phoenix, Ariz., June 1, 1932; Arkansas Gazette, Little Rock, Ark., May 31, 1932; the Herald, Los Angeles, Calif., June 2, 1932; the Post, Denver, Colo., May 31, 1932; the Times, Hartford, Conn., May 31, 1932; the Journal, Wilmington, Del., May 30, 1932; the Star, Washington, D. C., May 31, 1932; Florida Times-Union, Jacksonville, Fla., May 31, 1932; the Constitution, Atlanta, Ga., May 31, 1932; Idaho Statesman, Boise, Idaho, June 3, 1932; the Tribune, Chicago, Ill., June 1, 1932; the News, Indianapolis, Ind., May 30, 1932; the Register, Des Moines, Iowa, June 1, 1932; the Eagle, Wichita, Kans., June 2, 1932; the Times, Louisville, Ky., May 30, 1932; Times-Picayune, New Orleans, La., May 31, 1932; Press-Herald, Portland, Me., May 30, 1932; the Sun, Baltimore, Md., May 30, 1932; the Post, Boston, Mass., May 31, 1932; the News, Detroit, Mich., May 31, 1932; the Tribune, Minneapolis, Minn., August 18, 1932; the News, Jackson, Miss., May 30, 1932; the Star, Kansas City, Mo., May 31, 1932; the Tribune, Great Falls, Mont., June 1, 1932; World-Herald, Omaha, Nebr., May 31, 1932; the Gazette, Reno, Nev., May 31, 1932; the Union, Manchester, N. H., May 31, 1932; the News, Newark, N. J., May 31, 1932; New Mexico State Tribune, Albuquerque, N. Mex., May 31, 1932; Daily News, New York, N. Y., August 19, 1932; the Observer, Charlotte, N. C., May 31, 1932; the Forum, Fargo, N. Dak., May 31, 1932; the Press, Cleveland, Ohio, August 17, 1932; the Oklahoman, Oklahoma City, Okla., May 31, 1932; Oregon Journal, Portland, Oreg., May 31, 1932; the Bulletin, Philadelphia, Pa., May 31, 1932; the Bulletin, Providence, R. I., August 10, 1932; the News, Greenville, S. C., August 12, 1932; Argus-Leader, Sioux Falls, S. Dak., May 30, 1932; Commercial Appeal, Memphis, Tenn., May 31, 1932; Star-Telegram, Fort Worth, Tex., May 31, 1932; the Tribune, Salt Lake City, Utah, June 1, 1932; Free Press, Burlington, Vt., May 30, 1932; News Leader, Richmond, Va., May 28, 1932; the Star, Seattle, Wash., June 1, 1932; the Gazette, Charleston, W. Va., May 29, 1932; the Journal, Milwaukee, Wis., May 30, 1932; Tribune-Leader, Cheyenne, Wyo., May 31, 1932.]

ANNOUNCEMENT RELATING TO NURSERY STOCK, PLANT, AND SEED QUARANTINE (NO. 37)

MODIFICATION OF NURSERY STOCK, PLANT, AND SEED QUARANTINE REGULATIONS

INTRODUCTORY NOTE

Several changes in regulation 3 which are considered to be desirable at this time are here summarized.

(1) Up to the present only two species of the genus Fritillaria have been permitted entry under this regulation. It is now proposed to admit all species of this genus, and the wording of paragraph (1) has been changed to embody this liberalization of the restrictions.

(2) With the revocation of quarantine No. 44, governing the entrance of stocks, cuttings, scions, and buds of fruits from oriental countries and localities, effective July 1, 1932, such nursery stocks and other plant parts for propagation now come automatically under the provisions of quarantine No. 37. A proviso in regulation 3 is thus necessary to arrange for a continuance of the entrance of these materials, other than stocks, under regulation 14; otherwise under the terms of the present regulation oriental fruit cuttings, scions, and buds would have freer entry than seems desirable. The proviso which takes care of this feature appears in paragraph (2).

(3) The last revision of this regulation was made previous to the date set for the total exclusion of fruit and nut stocks. Paragraph (2) is now restated to accord with the situation at the time of this revision in regard to the restrictions on fruit and nut stocks.

(4) A proviso in paragraph (5) is introduced to indicate clearly the status of citrus seeds, which, released from a prohibited status under quarantine No. 19 by revision of that quarantine, effective July 1, 1932, now fall naturally under the provisions of quarantine No. 37, and therefore come into the category of materials covered in paragraph (5).

Under the restrictions herein provided, citrus seeds may now enter this country under permit, through specified ports, if free from pulp, and subject to disinfection under departmental supervision.

(5) Under the present regulation mango seeds are prohibited entry from all countries, on account of the danger of introducing on them the mango weevil (*Sternochetus mangiferae*). Since the best information now attainable indicates that this insect is restricted to the lands bordering the Indian Ocean and the islands of the Pacific and has not been recorded from any country of North America, Central America, or South America, or the West Indies, this prohibition has been modified to permit entry of mango seeds therefrom.

(6) Provision is made by an added clause of this regulation to permit certain materials now enterable under quarantine No. 56 for consumption purposes (largely edible roots), to be permitted entry also for propagation.

In regulation 7 a single change has been made in paragraph 5 to waive the requirement of freedom from sand, soil, or earth in connection with plants grown in Canada and imported under the provisions of regulation 15.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

AMENDMENT NO. 1 TO REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 37

(Approved June 22, 1932; effective July 1, 1932)

Under authority conferred by the plant quarantine act of August 20, 1912 (37 Stat. 315), it is ordered that regulations 3 and 7 of the revised rules and regulations supplemental to Notice of Quarantine No. 37, on account of certain injurious insects and fungous diseases, which were promulgated December 17, 1930, be, and the same are hereby, amended to read as follows:

Regulation 3. Nursery Stock, Other Plants and Parts of Plants, Including Seeds, for Which a Permit Is Required

The following nursery stock, other plants and parts of plants, including seeds, not including, however, such other plants and parts of plants as are named in Appendix A, which are governed by special quarantines and other restrictive orders now in force, nor such as may hereafter be made the subject of special quarantines, may be imported from countries which maintain inspection (Appendix B), under permit upon compliance with these regulations:

(1) Bulbs, corms, or root stocks (pips) of the following genera: Lilium (lily), Convallaria (lily of the valley), Hyacinthus (hyacinth), Tulipa (tulip), and Crocus; and, until further notice, Chionodoxa (glory-of-the-snow), Galanthus (snowdrop), Scilla (squill), Fritillaria, Muscari (grape-hyacinth), Ixia, and Eranthis (winter aconite).

(2) Cuttings, scions, and buds of fruits or nuts: *Provided*, That cuttings, scions, and buds of fruits or nuts may be imported from Asia, Japan, Philippine Islands, and Oceania (including Australia and New Zealand) under the provisions of regulation 14 only. (Stocks of fruits or nuts may not be imported, under permit or otherwise.)

(3) Rose stocks, including Manetti, *Rosa multiflora* (brier rose), and *R. rugosa*.

(4) Nuts, including palm seeds for growing purposes: *Provided*, That such nuts or seeds shall be free from pulp.

(5) Seeds of fruit, forest, ornamental, and shade trees, seeds of deciduous and evergreen ornamental shrubs, and seeds of hardy perennial plants: *Provided*, That such seeds shall be free from pulp: *Provided further*, That citrus seeds may be imported only through specified ports subject to disinfection as provided in regulation 9: *Provided further*, That mango seeds may not be imported under permit or otherwise, except from the countries of North America, Central America, and South America, and the West Indies, and that elm (*Ulmus* spp.) seeds may not be imported from Europe under permit or otherwise.

Importations from countries not maintaining inspection of nursery stock, other plants and parts of plants, including seeds, the entry of which is permissible under this regulation, may be made under permit upon compliance with these regulations in limited quantities for public-service purposes only, but this limitation shall not apply to tree seeds.

(6) Materials permitted entry under quarantine No. 56 for consumption purposes are authorized entry under this regulation for propagation.

Regulation 7. Certification, Marking, Freedom from Sand, Soil, or Earth, and Approved Packing Material

The importation of nursery stock and other plants and seeds from countries which maintain inspection will not be allowed unless the invoice is accompanied by an original certificate, and unless each container bears a copy certificate issued by a duly authorized official of the country from which it is exported, stating that the nursery stock and other plants and seeds covered by the certificate have been thoroughly inspected by him or under his direction at the time of packing, and found, or believed to be, free from injurious plant diseases and insect pests.

Each certificate and copy certificate shall give the date of inspection, name of the grower or exporter, the district or locality and the country where grown, and a statement that the nursery stock and other plants and seeds have been inspected by a duly authorized official and found, or believed to be, free from insect pests and plant diseases. The original certificate shall be signed and sealed by, and the copy certificate shall bear the seal and the actual or reproduced signature of, a responsible inspection official of the country of origin.

Lists of officials in foreign countries authorized to inspect nursery stock and other plants and seeds, giving their names and official designations, will be furnished to collectors of customs through the Secretary of the Treasury.

Each case, box, or other container or covering of nursery stock and other plants and seeds offered for entry shall be plainly and correctly marked to show the number of the permit, the general nature and quantity of the contents, the district or locality and country where grown, the name and address of the exporter, and the name and address of the consignee: *Provided*, That

all importations of plants authorized under regulation 14 shall be addressed to the United States Department of Agriculture, Plant Quarantine and Control Administration, at the port designated in the permit. In addition to the address, as indicated, such shipments shall be marked with the permit number and name of the importer. (For detailed instructions relative to entry conditions of such shipments, see P. Q. C. A.—249, p. 4.)

All nursery stock and other plants and seeds offered for import must be free from sand, soil, or earth, and all plant roots, rhizomes, tubers, etc., must be freed by washing or other means from such sand, soil, or earth: *Provided*, That this requirement shall not apply to plants imported from Canada under regulation 15: *Provided further*, That sand, soil, or earth may be employed for the packing of bulbs and corms when such sand, soil, or earth has been sterilized or otherwise safeguarded in accordance with the methods prescribed by the Plant Quarantine and Control Administration and is so certified by the duly authorized inspector of the country of origin. The use of such sand, soil, or earth as packing for plants other than bulbs and corms is not authorized.

All packing materials employed in connection with importations of nursery stock and other plants and seeds are subject to approval as to such use by the Plant Quarantine and Control Administration. Such packing material must not previously have been used as packing or otherwise in connection with living plants, and except as provided in the preceding paragraph for bulbs and corms, must be free from sand, soil, or earth, and must be certified as meeting these conditions by the duly authorized inspector of the country of origin.[1]

If a package of nursery stock and other plants and seeds offered for entry includes any prohibited article, or if any of the plants have not been freed from earth, the entire package may be refused entry.

This amendment shall be effective on and after July 1, 1932.

Done at the city of Washington, this 22d day of June, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.]

ARTHUR M. HYDE,
Secretary of Agriculture.

ANNOUNCEMENT RELATING TO PINK-BOLLWORM QUARANTINE (NO. 52)

MODIFICATION OF PINK-BOLLWORM QUARANTINE REGULATIONS

INTRODUCTORY NOTE

In the following amendment, a new method of using roller equipment for the compression of cotton lint or linters under the provisions of the pink bollworm quarantine regulations is approved. Amendments No. 2 and No. 3 are incorporated herein and are superseded by this order.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

AMENDMENT NO. 4 TO REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 52

(Approved May 20, 1932; effective June 15, 1932)

Under authority conferred by the plant quarantine act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulation 5 of the revised rules and regulations supplemental to notice of quarantine No. 52, on account of the pink bollworm, which were promulgated December 26, 1929, be, and the same is hereby, amended to read as follows:

[1] For detailed instructions relative to packing materials, including sterilized soil for bulbs and corms, see HB–132, revised June 8, 1921.

REGULATION 5. CONTROL OF MOVEMENT OF COTTON AND OTHER ARTICLES

SECTION A. COTTON LINT

(1) *Permits required.*—Cotton lint shall not be moved or allowed to be moved interstate from a regulated area to or through any point outside thereof unless a permit shall have been issued therefor by the United States Department of Agriculture.

(2) *Conditions governing the issuance of permits.*—Permits authorizing the interstate movement of cotton lint, linters, and samples, may be issued upon condition that the material has been produced in a gin in which all cottonseed is sterilized in manner and by method satisfactory to the inspector, that it has been so ginned as to prevent the inclusion of cottonseed, that it has been protected in a manner satisfactory to the inspector from contamination with cottonseed, and that it has, in addition, been given such compression, fumigation, or other treatment as may be prescribed in the following paragraphs:

(*a*) If the material was produced in areas in which pink bollworm infestation is so light that in the judgment of the Plant Quarantine and Control Administration fumigation may be omitted, permits may be issued on condition that the material either has been given standard or high-density compression and when ready for transportation has a density of at least 22 pounds to the cubic foot, or has been passed through special roller equipment in such a manner that in the judgment of the inspector all cottonseed and larvae therein would be crushed.

(*b*) If the material has been produced in regulated areas in which the infestation is not as light as prescribed in paragraph (*a*), fumigation under vacuum under the direction of and in a manner satisfactory to the inspector will also be required.

(*c*) If the material consists of samples, grabbots, flues, picker waste, motes, round bales, or any form of unmanufactured cotton fiber other than commercial square bales of lint and linters, one or more of the following treatments may be required by the inspector: Vacuum fumigation, standard or high-density compression, or passing through special roller equipment.

(*d*) Cotton lint, delint, samples, and grabbots, produced by any oil mill located outside the regulated areas but authorized under paragraph (6, *b*) below to crush cottonseed originating therein, shall be returned to the regulated areas for such compression and fumigation as may be required under previous paragraphs of this section, and shall not be moved therefrom except in compliance with all applicable requirements of this section.

(*e*) Uncompressed and undisinfected[2] cotton lint may be moved interstate under permit between regulated areas under such safeguards as shall be required by the inspector when such movement is not through any point outside any regulated area.

(3) *Lint grown outside regulated areas.*—Baled cotton lint grown outside of but brought within a regulated area may be moved interstate under permit out of such regulated area on the furnishing of evidence, satisfactory to the inspector, that such lint has been handled in a manner to safeguard it from possible contamination with the pink bollworm.

SECTION B. MISCELLANEOUS COTTON PRODUCTS AND OTHER RESTRICTED ARTICLES

(4) Stalks, bolls, and other parts of the cotton plant and gin waste shall not be moved or allowed to be moved interstate from regulated areas.

(5) Seed cotton shall not be moved or allowed to be moved interstate from regulated areas, except that for the purpose of ginning such seed cotton may be moved[2] interstate without permit between two contiguous regulated areas. Cottonseed and cotton lint ginned from seed cotton so moved may be returned without permit to point of origin.

(6) Cottonseed shall not be moved or allowed to be moved interstate from the regulated areas into or through any point outside thereof unless a permit shall have been issued therefor by the United States Department of Agriculture. Such permits may be issued under the conditions specified in any one of the following three paragraphs:

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[2] Except from the area in Arizona regulated on account of the Thurberia weevil under Quarantine No. 61.

(*a*) Permits may be issued for the interstate movement of sterilized cottonseed between regulated areas when such movement is not through any point outside any regulated area.

(*b*) Upon determination by the Plant Quarantine and Control Administration that reasonable necessity exists for such action, oil mills located outside of but in the vicinity of the regulated areas may be authorized to crush cottonseed originating in said areas, upon compliance with such conditions as shall in the judgment of said administration eliminate any risk of spread of the pink bollworm. Such authorized mills shall be operated in manner and by method satisfactory to and under the supervision of the administration. In case of such authorization, permits may be issued for the interstate movement from the regulated areas or portions thereof to such authorized mills for crushing of cottonseed which has been sterilized in manner and by method satisfactory to the inspector.

(*c*) Permits may be issued for the interstate movement of cottonseed produced in areas in which pink bollworm infestation is so light that the Plant Quarantine and Control Administration authorizes the omission of fumigation of the cotton lint produced therein, on condition that such seed shall be heated to a temperature of not less than 145° F. and held at such temperature for at least one hour; that the maintenance of such temperature shall be witnessed by an inspector, and that cottonseed so treated shall be immediately placed in sacks or other approved containers and shipped, or shall be segregated in a manner satisfactory to the inspector.

(7) Cottonseed hulls shall not be moved or allowed to be moved interstate from regulated areas into or through any point outside such areas. Cottonseed hulls may be moved interstate under permit [3] between regulated areas when such movement is not through any point outside any regulated area on the furnishing of evidence that the cottonseed from which the hulls were obtained was sterilized in manner and by method satisfactory to the inspector.

(8) Cottonseed cake and cottonseed meal shall not be moved or allowed to be moved interstate from a regulated area except under permit. Permits will be granted on the furnishing of evidence satisfactory to the inspector, (1) that the cottonseed (from a regulated area) used in the production of the cake and meal offered for movement was sterilized in manner and by method satisfactory to the inspector; (2) that in the process of and subsequent to the manufacture of such cake and meal safeguards have been taken against their possible contamination with raw cottonseed; and (3) that the containers or wrappers of such cake and meal have met the requirements hereinafter set forth in paragraph (9) of this regulation.

(9) Bagging and other wrappers and containers which have been used in connection with or which are contaminated with cotton, seed cotton, cottonseed, cottonseed hulls, cottonseed cake and meal, or cotton lint shall not be moved or allowed to be moved interstate from a regulated area except under permit. Permits will not be granted until such bagging or other wrappers or containers have been cleaned or disinfected to the satisfaction of the inspector.

(10) Railway cars, boats, and other vehicles which have been used in conveying cotton and cotton products or which are fouled with such products, and farm household goods, farm equipment, and, if contaminated with cotton, other articles shall not be moved or allowed to be moved interstate from a regulated area until the same have been thoroughly cleaned or disinfected at the point of origin or shipment to the satisfaction of the inspector.

(11) Hay and other farm products the interstate movement of which has not been specifically provided for elsewhere in this regulation may be moved interstate without restriction until further notice.

This amendment shall be effective on and after June 15, 1932, and on that date shall cancel and supersede amendments No. 2 and No. 3 to these revised regulations.

Done at the city of Washington, this 20th day of May, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.]

R. W. DUNLAP,
Acting Secretary of Agriculture.

[The foregoing amendment was sent to all common carriers doing business in or through the States of Arizona, New Mexico, and Texas.]

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[3] See footnote 2.

NOTICE TO GENERAL PUBLIC THROUGH NEWSPAPERS

UNITED STATES DEPARTMENT OF AGRICULTURE,
PLANT QUARANTINE AND CONTROL ADMINISTRATION,
Washington, D. C., May 20, 1932.

Notice is hereby given that the Secretary of Agriculture under authority conferred on him by the plant quarantine act of August 20, 1912 (37 Stat. 315), as amended, has promulgated an amendment to the revised rules and regulations supplemental to Notice of Quarantine No. 52, on account of the pink bollworm, effective June 15, 1932. This amendment authorizes a new method of using roller equipment for the compression of cotton lint or linters under the provisions of the pink bollworm quarantine regulations. Copies of said amendment may be obtained from the Plant Quarantine and Control Administration, Washington, D. C.

R. W. DUNLAP,
Acting Secretary of Agriculture.

[Published in the following newspapers: El Paso Post, El Paso, Tex., May 30, 1932; New Mexico State Tribune, Albuquerque, N. Mex., May 31, 1932; Arizona Republican, Phoenix, Ariz., June 1, 1932.]

ANNOUNCEMENT RELATING TO STOCKS, CUTTINGS, SCIONS, AND BUDS OF FRUITS FROM THE ORIENT QUARANTINE (NO. 44)

STOCKS, CUTTINGS, SCIONS, AND BUDS OF FRUITS FROM THE ORIENT BROUGHT UNDER QUARANTINE 37 BY REVOCATION OF QUARANTINE 44

INTRODUCTORY NOTE

Notice of quarantine No. 44 (stocks, cuttings, scions, and buds of fruits quarantine), governing the importation of fruit stocks, cuttings, scions, and buds from the Orient—namely, Asia, Japan, Philippine Islands, and Oceania (including Australia and New Zealand)—has been in effect since June 1, 1920. It was designed to place propagating materials from that part of the world under considerably closer restriction than was thought to be necessary in connection with those from European countries, partly because of the danger of introducing several known injurious insects and diseases from the Orient, and partly because the unknown element of danger was suspected to be great.

The restrictions which are now being enforced in connection with this quarantine are identical with those of regulation 14 of quarantine No. 37 (the nursery stock, plant, and seed quarantine), and it would appear, therefore, that there is no special need for further continuance of quarantine No. 44. It can be merged into quarantine No. 37 so as to maintain the existing safeguards and yet simplify both public understanding of the restrictions and administration methods.

To bring about this fusion it is proposed to revoke quarantine No. 44, whereupon the fruit stocks, cuttings, scions, and buds originating from the countries mentioned will fall automatically under the provisions of quarantine No. 37. To provide for continuance of the entry of the cuttings, scions, and buds as before, under the restrictions of regulation 14 of quarantine No. 37, regulation 3 of that quarantine has been revised to exempt these materials from said regulation and to refer them specifically to the jurisdiction of regulation 14.

It is noted that this procedure leaves fruit stocks from the above-mentioned oriental countries in the list of stocks prohibited entry in regulation 3. They are thus given the same standing as fruit and nut stocks from all other countries.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

NOTICE OF LIFTING OF QUARANTINE NO. 44

(Effective on and after July 1, 1932)

Pursuant to the provisions of the plant quarantine act of August 20, 1912 (37 Stat. 315), I, Arthur M. Hyde, Secretary of Agriculture, do hereby revoke Notice of Quarantine No. 44 (stocks, cuttings, scions, and buds of fruits quar-

antine), promulgated March 24, 1920, and effective June 1, 1920, such revocation to become effective on July 1, 1932.

Done at the city of Washington, this 22d day of June, 1932.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL.] ARTHUR M. HYDE,
Secretary of Agriculture.

TERMINAL INSPECTION OF PLANTS AND PLANT PRODUCTS

PLANTS AND PLANT PRODUCTS ADDRESSED TO PLACES IN CALIFORNIA

POST OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER GENERAL,
Washington, April 28, 1932.

Postmasters in the State of California are informed that facilities for the terminal inspection at Crescent City, Del Norte County, have been discontinued and, therefore, such plant material as would ordinarily be sent to Crescent City should be sent to Eureka, Calif., for terminal inspection upon payment of the required postage, as prescribed by section 468, Postal Laws and Regulations.

F. A. TILTON,
Third Assistant Postmaster General.

CERTIFICATE OF INSPECTION NOT REQUIRED FOR SWEETPOTATO PLANTS

POST OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER GENERAL,
Washington, April 28, 1932.

Postmasters are informed that sweetpotato plants may be accepted for transmission in the mails without being accompanied with the certificate of inspection prescribed by paragraph 2, section 467, Postal Laws and Regulations.

However, when such plants are addressed for delivery within a State maintaining terminal inspection, the parcels must be indorsed on the outside to show the exact nature of the contents.

F. A. TILTON,
Third Assistant Postmaster General.

MISCELLANEOUS ITEMS

P. Q. C. A.—335. MAY 16, 1932.

LEGAL DATA WITH REFERENCE TO AGRICULTURAL QUARANTINE LITIGATION IN THE COURTS OF THE UNITED STATES

Various plant quarantine officers, through the Western and National Plant Boards, have asked the department to compile "the legal data, statutes, and court decisions which have accumulated as a result of litigation in connection with Federal and State agricultural quarantines." These requests involve several features: (1) State plant quarantines; (2) State nursery inspection laws and regulations, and (3) court decisions.

Synopses of State plant quarantines have been issued as Miscellaneous Publication 80, which is a loose-leaf bulletin being kept up to date by revision from time to time.

Nursery inspection laws and regulations have been compiled in the form of a chart which is now available for distribution.

There is presented below a synopsis of court decisions of interest to plant-quarantine officers. The information has been compiled in the Office of the Solicitor of the Department of Agriculture and is believed to be complete so far as concerns plant quarantine decisions in the Federal courts. An attempt has also been made to include decisions in State courts but it is possible that some such decisions have been overlooked.

In addition, the Solicitor's office has received from various sources informal information concerning a number of unpublished decisions, but these have not

been included as they could not be verified completely and in the absence of publication could not be used as citations in future litigation.

The concluding paragraphs of the synopsis, reporting decisions with reference to State laws which declare certain privately owned trees, weeds, and other plants to be nuisances, are included owing to the fact that laws of this kind are similar in the principle involved to various State pest-suppression statutes.

LEE A. STRONG,
Chief, Plant Quarantine and Control Administration.

LITIGATION INVOLVING THE CONFLICT BETWEEN FEDERAL AND STATE PLANT QUARANTINE LAWS

(*a*) Federal courts

The outstanding case is that of Oregon-Washington Railroad & Navigation Co. *v.* The State of Washington, decided in the United States Supreme Court March 1, 1926. This case involved a shipment into the State of Washington from Idaho of alfalfa which was not in sealed containers, as required by a Washington statute which prohibited its importation otherwise. The court held (quoting the syllabus in 270 U. S. 87) as follows:

The power of the States to quarantine against importation of farm produce likely to convey injurious insects from infested localities, was suspended, in so far as concerns interstate commerce, by the Act of August 20, 1912, as amended March 4, 1917, investing the Secretary of Agriculture with full authority over the subject. P. 96.

This Act of Congress can not be construed as leaving the States at liberty to establish such quarantines in the absence of action by the Secretary of Agriculure. P. 102.

A quarantine proclaimed by the State of Washington under Ls. 1921, c. 105, against importation of alfalfa hay and alfalfa meal, except in sealed containers, coming from designated regions in other States found to harbor the alfalfa weevil, is therefore inoperative. Pp. 93, 102.

(*b*) State courts

The case of American Railway Express Co. *v.* Morris, in 1928, in the Supreme Court of Oklahoma (264 Pac. 619), involved the transportation into the State of Oklahoma from the State of Texas of sweetpotato plants, which had not been inspected and found free from injurious insects and diseases, as required by the quarantine laws of Oklahoma. It was held (quoting from the syllabus) as follows:

In the absence of any action taken by the National Congress on the subject matter, a State, in the exercise of its police power, may establish quarantines against plants, the importation of which may expose plants or growing crops to disease, injury, or destruction.

Act Congress August 20, 1912, Sec. 8, as amended by Act March 4, 1917 (Comp. St. 1918, Comp. St. Ann. Supp. 1919, Sec. 8760, 7 USCA Sec. 171), gave to Agricultural Department of federal government exclusively the care of horticulture and agriculture of several States, so far as affected injuriously by transportation in foreign and interstate commerce of anything which by reason of its character can injuriously affect trees, plants, or crops.

Chapter 20, art. 12 (sections 3795–3834), C. O. S. 1921, giving the board of agriculture power to establish quarantines against the importation of infected trees and plants, cannot be given application while the Act of Congress of August 20, 1912, Sec. 8, as amended by the Act of March 4, 1917 (Comp. St. 1918, Comp. St. Ann. Supp. 1919, Sec. 8760, 7 USCA Sec. 161), is in force.

These are the only court cases dealing specifically with the question of the conflict between Federal and State agricultural quarantine laws, but the principles thus laid down follow those enunciated in a number of earlier United States Supreme Court cases, which dealt mainly, however, with the conflict between Federal and State quarantines, covering or relating to the interstate shipments of persons, animals, and to commodities other than plants. The chief decisions of this kind, up to 1924, were gathered together by the Solicitor for the United States Department of Agriculture in that year and are published on pages 67 to 73 in the Service and Regulatory Announcements of the Federal Horticultural Board in its October issue, 1924.

While the principles enunciated in the Oregon-Washington and the American Railway Express Co. cases, above cited, are therein applied for the first time to plant quarantines, these same principles had, for a long period, been made applicable by the courts to State and Federal regulations of shipments of animals and animal products, as will be seen from the case of Reid *v.* Colorado, decided by the Supreme Court in 1902 and reported in 187 U. S. 137, wherein, at page 146, the court said:

When the entire subject of the transportation of livestock from one State to another is taken under direct national supervision and a system devised by which diseased stock

may be excluded from interstate commerce, all local or State regulations in respect of such matters and covering the same ground will cease to have any force whether formally advocated or not, and such rules and regulations as Congress may prescribe or authorize will alone control.

It may be observed that the quotation, given immediately above, might be taken almost verbatim from the Oregon-Washington case, if it were not for the fact that the court, in Reid *v.* Colorado, is dealing with livestock, instead of plants.

To a like effect is the case of Southern Railway Co. *v.* Reid (222 U. S., 424), which involved the question of a North Carolina statute, which required common carriers, under penalty, to transport freight to interstate points as soon as received. It was held that this was in conflict with the Hepburn Act of 1906, forbidding interstate transportation until rates had been fixed and published. The court said (p. 436):

> It is well settled that, if the State and Congress have a concurrent power, that of the State is superseded when the power of Congress is exercised.

Also, at page 442:

> Manifestly, one authority must be paramount and when it speaks the other must be silent. We can see no middle ground. In so deciding we take no essential power from the State. Balances of the Constitution are only preserved and there is given to the State the power which is the State's and to Congress the power that belongs to Congress.

Obviously, in view of the foregoing decisions, the opinion in the Oregon-Washington case was only following well-established precedents when it ended with the statement: "With the Federal law in force, State action is illegal and unwarranted."

It is important to note that, shortly after the Supreme Court, in March, 1926, rendered its decision in the Oregon-Washington case, Congress, by Joint Resolution of April 13, 1926 (44 U. S. Stat. 250), modified the scope of that decision by an amendment to section 8 of the plant quarantine act, in which it was provided that, until the Secretary of Agriculture, under the authority of that act, had issued a quarantine with respect to particular insect pests and plant diseases, the States might issue and enforce plant quarantines on account of such pests or diseases and thus directly affect the interstate movement of plants and plant products, in such cases, in spite of the fact that the plant quarantine act was in force at the time. The amendment thus referred to reads as follows:

> *Provided further,* That until the Secretary of Agriculture shall have made a determination that such a quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as herein above provided, nothing in this Act shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further,* That the Secretary of Agriculture is hereby authorized whenever he deems such action advisable and necessary to carry out the purposes of this Act, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further,* That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this Act shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

LITIGATION INVOLVING THE LEGALITY OF A FEDERAL PLANT QUARANTINE ISSUED BY THE SECRETARY OF AGRICULTURE

United States District Court for the District of Arizona

The case of Smith *v.* Jardine (United States Secretary of Agriculture) involved the question whether Federal Quarantine No. 61, to prevent the spread of a dangerous plant insect infestation, the Thurberia weevil, had been legally issued. The case was decided in November, 1930, and held (the decision has not been published) that, inasmuch as Congress in the plant quarantine act of August 20, 1912, had empowered the Secretary of Agriculture to issue the

quarantine when he determined, after giving a public hearing, that such action was necessary, and the hearing having been held and the Secretary having made his determination that such action was necessary as the result of such hearing, the findings and determination by him could not be judically reviewed unless there was evidence of arbitrariness or unfairness, which the Court was unable to find.

The following quotations give the language of the court:

> Numerous interesting questions of both law and fact have been thoroughly and ably discussed by counsel for the respective parties, but the really important question is: Whether there was substantial evidence presented at the hearing before the Secretary of Agriculture or the Federal Horticultural Board warranting the determination made, and the promulgation of the quarantine order.
>
> I have read and carefully considered the entire evidence, both oral and documentary, introduced at such hearing, and while I might not, upon a consideration thereof, have arrived at the same conclusion, as that arrived at by the Secretary, I can not say that there was no substantial basis of fact to support the quarantine order here involved, neither can I say that the Secretary acted arbitrarily or unfairly.
>
> The Act of Congress having conferred upon the Secretary of Agriculture the power and duty to find facts and determine conditions upon which the operation of the statute depends, such findings and determination can not be judically reviewed in the absence of a showing that he acted arbitrarily or unfairly, or that there was no evidence to support such finding and determination.

LITIGATION INVOLVING STATUTES, IN THE NATURE OF QUARANTINES, DESIGNED TO PREVENT THE SPREAD OF ORCHARD AND CROP DISEASES OR OF NOXIOUS VEGETATION

(A) *In the matter of preventing the spread of orchard and crop diseases*

(1) Federal courts

The case of Miller *v.* Schoene, State entomologist (276 U. S. 272), was decided in February, 1928, in the United States Supreme Court and involved the constitutionality, under the due process clause of the fourteenth amendment, of a Virginia statute, which required the owner of private lands to cut down his cedar trees which were found to be infected with the cedar rust, in order to prevent the spread of that disease to near-by apple orchards. The court held (quoting, in part, from the syllabus in 48 Sup. Ct. Reporter, 246) as follows:

> Cedar Rust Act of Virginia (Code Va. 1924, Secs. 885–893), providing for destruction of cedar trees to prevent communication of plant disease to apple orchards, *held* not unconstitutional, as violating due process clause of Const. U. S. Amend. 14, since State, when forced to choose between destruction of one class of property or another, does not exceed constitutional powers by deciding on destruction of property which in judgment of Legislature is of less value to public.
>
> Where public interest is involved, preferment of that interest over property interest of individual to extent even of its destruction is one of distinguishing characteristics of every exercise of police power which affects property.

The case of Kelleher *v.* French (22 Fed. 2d 341) in 1927, involved the same statute in Virginia as that in the Miller *v.* Schoene case and, in upholding it, the court said that, in the light of the evidence produced at the trial:

> We have no doubt that the enactment of the statute was a valid exercise of the police power of the State. Properly considered, it does not authorize the taking of one man's property for another man's benefit, but is a reasonable regulation of the use of property in furtherance of the public welfare. It authorizes the destruction of trees which are shown to be of but comparatively little value, only where they constitute a menace to a great industry of the State.

(2) State courts

The case of Carstens *v.* DeSellem (144 Pac. 934), in 1914, involved a Washington statute which authorized the State commissioner of agriculture to destroy privately owned fruit trees, after having found them infected with a dangerous disease, when the owner failed to do so after notice of their condition. The court held that the statute was passed in a valid exercise of the State's police power and used in this striking language: "Broadly stated, the police power of the State is the State's law of self-defense in respect to both persons and property."

The case of State *v.* Main (37 Atlantic 80), in 1897, involved a Connecticut statute which declared certain trees, when diseased with the "yellows," to be public nuisances and required their destruction, without compensation, by their

owners or, on their refusal, by the commissioner. In upholding the validity of this statute, the court said:

> The destruction of a tree affected with a disease of that character, without compensation to the owner and against his will, is as fully within the police power of the State as the destruction of a house threatened by a spreading conflagration or the clothes of a person who has fallen the victim of smallpox. Such property is not taken for public use. It is destroyed because, in the judgment of those to whom the law has confided the power of decision, it is of no use and is a source of public danger.

The case of Louisiana State Board *v.* Tanzmann (148 S. W., 1176), in 1912, involved a statute giving the State entomologist power to take charge of an orchard infected with a dangerous disease, without any request from the property owner, and either to treat it or destroy it, without compensation to the owner. In upholding the validity of this statute the court said that the destruction of such trees is not the taking of private property for a public purpose without due process of law but is a competent exercise of the police power of the State.

The case of Wallace *v.* Dohner (165 N. E., 552), in 1929, involved an Indiana statute, which authorized the State conservation department to make rules and regulations for the enforcement of the State law for the prevention of plant disease and pests. Under this authorization, an order was issued which quarantined certain sections of the State as infested with the corn borer and required all corn in the infested area to be cut and burned or completely buried. The court held (1) that the legislation was within the police power of the State, and (2) that the order was reasonable and within the authority delegated to the conservation department by the statute.

(B) *In the matter of preventing the spread of noxious vegetation*

(1) Federal courts

The case of the District of Columbia *v.* Green (29 App. D. C. 296), in 1907, involved an act of Congress of March 1, 1899, which required an owner of land in the city of Washington to remove therefrom any weeds more than 4 inches in height, when directed to do so by the health department. The court held that the subject matter of the act was within the police power which Congress may exercise in the District of Columbia.

The case of M. K. & T. Ry. Co. *v.* May (194 U. S. 267), in 1904, involved a Texas statute prohibiting any railroad company from permitting Johnson grass to go to seed on its right of way. In upholding the validity of this act, the court held that the prohibition did not so clearly deny to the railroad company the equal protection of the law as to be a violation of the fourteenth amendment to the Constitution.

The case of Ch., T. H. & S. G. Ry. Co. *v.* Anderson (242 U. S. 283), in 1916, involved an Indiana statute which required every railroad company between July 1 and August 20 of each year to cut down all thistles and weeds on land which the company occupied. The court held that the statute was valid "under the doctrine of the May case."

(2) State courts

The case of Wedemeyer *v.* Crouch (122 Pac. 366), in 1912, involved a Washington statute which declared certain weeds to be noxious and required landowners to cut them down and prescribed that if, on notice from the road supervisor, the owner should fail to do so, the supervisor should do it and the cost should be made a tax on the land. The court held that this was a valid police regulation and not in conflict with any provision of the State or Federal Constitution.

The case of State *v.* Boehm (100 N. W. 95), in 1904, involved a Minnesota statute which declared certain weeds to be nuisances and imposed a penalty on any owner of private lands who neglected or refused to remove or destroy such weeds, after notice from the legally designated official. The court held this to be a valid exercise of the police power of the State.

The case of St. Louis *v.* Galt (179 Mo. 8), in 1903, involved a city ordinance of St. Louis which declared all weeds more than a foot high on private property to be nuisances, required all owners of city lots to cut down such weeds on their property, and provided a penalty for the violation of the ordinance. The court held that the city charter empowering it to abate nuisances on private property

conferred ample power to pass the ordinance in question and to enforce it in the exercise of its police power.

In all these cases, involving the right of the State under its police power to destroy private property as a means of preventing the spread of diseases affecting orchards, crops, and vegetation, it is, in some cases, explicitly stated, and, in the others, it is implied, that the owner is entitled to no compensation because of the destruction of his property. This results from the fact, as stated, that such State action is based on its police power and not on its right of eminent domain. The distinction is that, when, under the sovereign right of eminent domain, private property is taken for public use, the owner is entitled to compensation, whereas, under the police power, even though the property may be taken from the owner, as in the case of certain nuisances, it is not "taken for public use" but is taken away so that it may be destroyed, in order to promote the general welfare, while the owner shares in the general benefit resulting from the exercise of the State power. The principle on which action of this kind by the State is based, was stated nearly a half a century ago by the United States Supreme Court in Mugler *v.* Kansas (123 U. S. 623), where, at page 669, the court said:

> The power which the States have of prohibiting such use by individuals of their property as will be prejudicial to the health, the morals, or the safety of the public, is not—and, consistently with the existence and safety of organized society, can not be—burdened with the condition that the State must compensate such individual owners for pecuniary losses they may sustain, by reason of their not being permitted, by a noxious use of their property, to inflict injury upon the community. The exercise of the police power by the destruction of property which is itself a public nuisance, or the prohibition of its use in a particular way, whereby its value becomes depreciated, is very different from taking property for public use, or from depriving a person of his property without due process of law. In the one case, a nuisance only is abated; in the other, unoffending property is taken away from an innocent owner.

PINK BOLLWORM OF COTTON FOUND IN SOUTH FLORIDA

(Press notice)

JUNE 14, 1932.

The pink bollworm of cotton was discovered a few days ago in southern Florida, the Plant Quarantine and Control Administration of the United States Department of Agriculture announced to-day.

This insect, which does not occur in any part of the main Cotton Belt of the United States, was found in a small patch of not more than 2 acres of cultivated cotton near Miami and in wild cotton in a section of Florida extending from south of Miami to Key West. This region is some 400 miles distant from commercial cotton plantings. Infestation has been found in a native species of wild cotton growing on the coral-rock formations of southern Florida and the keys.

The pink bollworm occurs in the West Indies and in Mexico as well as in the other principal cotton-growing regions of the world but has heretofore been found in the United States only in the Southwest. The only infestation in the main Cotton Belt consisted of an extensive outbreak from 1916 to 1921 in southeastern Texas and southwestern Louisiana. This outbreak was eradicated about 10 years ago, and no specimens have since been found in that region. The infestation in Mexico, however, extends northward into western Texas, New Mexico, and Arizona, where cotton is grown in certain irrigated sections. An eradication program in Arizona is in progress at the present time.

The Department of Agriculture, in cooperation with the State Plant Board of Florida, has taken immediate steps to eradicate the newly found Florida infestation and to prevent spread during the eradication work. Fortunately, under the peculiar conditions existing in and around this section, the danger of spread to commercial cotton-growing areas is considered relatively small, and it is hoped that the precautionary measures now being taken will largely eliminate any spread. Both the department and the plant quarantine officials of the States concerned believe that quarantine action at this time is not necessary and hope that the pest can be exterminated without the necessity of issuing such regulations.

The State quarantine officials of five leading cotton-growing States met with members of the Plant Quarantine and Control Administration and the Bureau

of Entomology at Atlanta, Ga., on June 11 to discuss the situation created by the finding of the insect in southern Florida. All agreed with the plan outlined by the Plant Quarantine and Control Administration.

PENALTIES IMPOSED FOR VIOLATIONS OF THE PLANT QUARANTINE ACT

According to reports received by the administration during the period April 1 to June 30, 1932, penalties have recently been imposed by the proper Federal authorities for violations of the plant quarantine act, as follows:

JAPANESE-BEETLE QUARANTINE

In the case of the United States *v.* Samuel Winarsky, Newark, N. J., in the interstate transportation by motor truck of miscellaneous farm products from a point in the regulated area to a point outside thereof, without inspection and certification, the defendant pleaded guilty and was sentenced to five days in jail.

FRUIT AND VEGETABLE QUARANTINE OF PUERTO RICO

In the case of the United States *v.* Mariano Figueroa, Ponce, P. R., in shipping to the mainland, through the port of San Juan, 50 cases of yams and 3 cases of banana leaves, the defendant pleaded guilty and was fined $100 and $26 costs.

QUARANTINES AFFECTING MEXICAN AND CANADIAN PRODUCTS

In the case of the United States versus the persons listed below, for attempting to smuggle in contraband plant material, the penalties indicated were imposed by the United States customs officials at the following ports:

Name	Port	Contraband	Penalty
C. W. Esslinger	Brownsville, Tex	1 mango and 6 avocados with seed	$5.
Francisco Jaques	do	2 mangoes	5.
M. O. Steele	do	8 avocados with seed	5.
Domingo Garcia	do	3 mangoes	5.
Guadalupe Lederma	do	do	5.
Lorrayn Miller	do	1 mamey	5.
Ecliseria Posada	do	1 ponderoso lemon, 2 avocados with seed, and 2 mamey seed.	5.
Francisco Venegas	do	2 oranges	5.
Manuel Quired	do	12 avodacos with seed	5.
A. C. Puckett	do	5 avocada seeds, 3 mangoes, and 2 mameys.	5.
Jose Aguilar	do	27 avocados	35 days in jail.
Maria de la Jesus Herera de Dachedo.	Eagle Pass, Tex	Avocados with seed	$1.50.
E. G. Cardenas	do	6 avocados	1.
Z. G. Lozans	do	16 avocados with seed	3.20.
Josepha Ramos	El Paso, Tex	1 mamey	5.
Gertrudis Romero	do	16 avocados	5.
Refugio Betancourt	do	3 mangoes	5.
Aniceto Torres	do	10 avocados with seed and 6 mangoes	5.
Refugio Corral de Rodriguez.	do	5 avocados with seed	5.
Jack Trollinger	Hidalgo, Tex	14 avocados	5.
T. L. L. Temple	do	5 avocados	5.
Joe Nassar	do	3 avocados	5.
Jose Hernandez	Laredo, Tex	25 avocados, 3 mangoes, and 1 mamey	1.
Maria Trevino	do	20 avocados	1.50.
Valentin Mendoza	Presidio, Tex	20 pounds of seed corn	5.
Santiago Baeza	do	43 pounds of corn	5.
Lucio Tijerina	Rio Grande City, Tex	5 avocados	5.
Juan Canales	do	3 avocado seed	5.
Aurrello Espinosa	Roma, Tex	4 apples	5.
Mrs. C. C. Berry	Blaine, Wash	113 plants	250.

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