

NOTICES

DEPARTMENT OF AGRICULTURE

Order of Quarantine; Thousand Cankers Disease

Recitals

- A. Thousand Cankers Disease (TCD), a disease complex that kills walnut trees, *Juglans spp.*, has been detected in the Commonwealth. There is no cure for a tree once it is infected. The fungus *Geosmithia morbida* is vectored by the walnut twig beetle, *Pityophthorus juglandis*, causing small cankers under the bark of the tree. The beetle introduces the fungus while it tunnels beneath the bark. As more beetles attack the tree, the number of cankers increases until they coalesce to girdle twigs and branches, restricting movement of nutrients and eventually killing the tree. Thousand Cankers Disease has been detected in the Commonwealth and has the potential to spread to uninfested areas by natural means or through the movement of infested articles.
- B. The Plant Pest Act (Act) (3 P. S. §§ 258.1—258.27) empowers The Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests. These powers include the authority to establish quarantines to prevent the spread of plant pests within this Commonwealth.
- C. Under the authority of section 258.20 of the Act (3 P.S. § 258.20) the Department may declare a pest to be a public nuisance when the Department determines a plant pest to be dangerous or destructive to the agriculture, horticulture or forests of this Commonwealth. For the reasons set forth in Paragraph A above, the Department declares TCD, the fungus *Geosmithia morbida* and the walnut twig beetle, *Pityophthorus juglandis*, to be plant pests.

Order

Under authority of section 21 of the act (3 P. S. § 258.21), and with the Recitals previously listed incorporated into this Order by reference, the Department orders the following:

1. *Establishment of Quarantine.*

A quarantine is hereby established with respect to Bucks County.

2. *Regulated Articles and Limitations Imposed.* The following objects or materials are considered regulated articles under this Quarantine Order and may not be moved out of the quarantined area, unless done in accordance with Paragraph 3 of this Order:

- Any life stage of the walnut twig beetle, *Pityophthorus juglandis*.
- The fungal pathogen, *Geosmithia morbida*.
- Firewood of any non-coniferous (hardwood) species.

- All plants and plant parts of the genus *Juglans* including but not limited to nursery stock, budwood, scionwood, green lumber, firewood, and other material living, dead, cut, fallen including stumps, roots, branches, mulch, and composted and uncomposted chips.
- Any other article or means of conveyance when it is determined by an inspector to present a risk of spread of Thousand Cankers Disease.

Specific exemptions include nuts, nut meats, hulls, processed lumber (which is one hundred percent bark-free and kiln-dried, with squared edges) and finished wood products without bark, including walnut furniture, instruments, and other items derived from the genus *Juglans*.

3. *Movement of regulated articles from quarantined areas.* A regulated article described in Paragraph 2 of this Order may be moved from a quarantined area only under the following circumstances:

a. *With* a valid certificate or limited permit attached and issued in accordance with the provisions of Paragraph 4 or Paragraph 6 of this Order. The valid certificate or limited permit shall be attached to the regulated article as set forth in Paragraph 5 of this Order.

b. *Without* a certificate or limited permit attached and issued in accordance with the provisions of Paragraph 4 of this Order if:

i. The regulated article is moved by the United States Department of Agriculture or the Department for experimental or scientific purposes; or

ii. The regulated article originates outside the quarantined area and is moved intrastate through the quarantined area under the following conditions:

A. The points of origin and destination are indicated on a waybill accompanying the regulated article; and

B. The regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40° F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the TCD; and

C. The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed or handled at locations approved by an inspector as not posing a risk of infestation by TCD; and

D. The article has not been combined or commingled with other articles so as to lose its individual identity.

iii. A USDA-issued or USDA-authorized (by USDA compliance agreement) certificate or permit is attached.

4. *Obtaining a Certificate or Limited Permit from the Department for Movement of Articles.*

The Department or a person operating under a compliance agreement, as set forth in Paragraph 6 of this Order, may issue a certificate or limited permit authorizing the movement of articles described in Paragraph 2 of this Order if it is satisfied that all of the following criteria are accurate and will be met:

a. The article is to be moved in compliance with this Order and any additional emergency conditions that the Department may impose under the Plant Pest Act in order to prevent the artificial spread of TCD; and

b. The article is either of the following:

i. The article is apparently free of TCD, based on inspection; or the article has been grown, produced, manufactured, stored or handled in a manner that, in the judgment of the Department, prevents the article from presenting a risk of spreading TCD; or

ii. The article is to be moved to a specified destination for specific processing, handling or utilization (the destination and other conditions to be listed on the advance written permission), and this movement will not result in the spread of TCD because TCD will be destroyed by the specific processing, handling or utilization.

5. *Documentation to Accompany Articles in Movement from the Quarantined Area.* If an article described in Paragraph 2 of this Order is to be moved from the quarantined area, the article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have a copy of the applicable Department-issued or Department-authorized (by compliance agreement as described in Paragraph 6 of this Order) certificate or limited permit securely attached to the article itself, the container carrying the article, or to the consignee's copy of the accompanying waybill at all times during movement. The description of the article on the certificate or limited permit, and on the waybill, shall be sufficient to identify the regulated article. The carrier shall furnish the certificate or limited permit authorizing the movement of the article to the consignee at the destination of the shipment. The carrier and the consignor shall keep a copy of the certificate or limited permit. All such records shall be maintained by the consignee, consignor and carrier for a period of 2 years. Such records shall be made available to the Department for inspection upon request.

6. *Compliance Agreements.* The Department will consider entering into a compliance agreement with any person that demonstrates an understanding of the requirements of this Order and otherwise satisfies the Department it is capable of issuing certificates or limited permits in accordance with the requirements of this Order. The Department shall either provide blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the movement of regulated articles that have met all of the requirements of Paragraph 4 of this Order.

7. *Cancellation of a Certificate, Limited Permit or Compliance Agreement.* Any certificate or limited permit or any Compliance Agreement may be canceled orally or in writing by the Department whenever the Department determines that the holder of the certificate or limited permit or the Compliance Agreement has not complied with a provision of the Act or this Order. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

8. *Prohibited entry into Pennsylvania.* The movement of a regulated article, as set forth in Paragraph 2 of this Order, originating in states known to have Thousand Cankers Disease, or from any other area of the United States where federal or state plant regulatory officials have determined Thousand Cankers Disease to be present, is prohibited unless prior written approval is issued by the Department. States with known areas of infestation of TCD include, but are not limited to, Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Tennessee, Utah, Virginia, and Washington.

Consideration by the Department for entry of a regulated article into Pennsylvania will be given if:

- The plant regulatory agency of the state of origin issues a document certifying that the article is apparently free of TCD, based on inspection; or that the article has been grown, produced, manufactured, stored or handled in a manner that, in the judgment of the state regulatory agency, prevents the article from presenting a risk of spreading TCD; or
- The article is to be moved to a specified destination for specific processing, handling or utilization (the destination and other conditions to be listed on the advance written permission), and this movement will not result in the spread of TCD because TCD will be destroyed by the specific processing, handling or utilization; or
- The movement of the regulated article is for research purposes to a facility with appropriate containment conditions; and
- The regulated article will be moved in a manner consistent with the provisions of Paragraph 3(b)(ii) of this Order; and
- The regulated article will be identified, moved and recorded in a manner consistent with the provisions of Paragraph 5 of this Order.

Any person or business receiving regulated articles from outside the Commonwealth under this provision who finds that the article does not fully meet the requirements of this provision shall report that information or observations to the Department immediately upon discovery.

9. *Federal Requirements for Interstate Movement of Articles.* This Order is distinct from, and in addition to, any Federal statute, regulation or quarantine order addressing the movement of articles from the quarantined area or this Commonwealth.

10. *Contacting the Department.* A person seeking information about the requirements of this Order, or a limited permit for movement of quarantined articles, or a compliance agreement for intrastate movement of quarantined articles, shall contact the Department at: Pennsylvania

Department of Agriculture, Bureau of Plant Industry, Attention: Dana Rhodes, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-5205, danrhodes@pa.gov.

11. *Violations.* In accordance with the provisions of section 258.22 of the Act (3 P.S. § 258.22) it shall be unlawful to violate or fail to comply with any provision of the Act, regulations or this Order.

12. *Criminal and Civil Penalties.* A person who violates this Order will face summary criminal prosecution carrying up to 90 days imprisonment and a fine of up to \$300 with respect to each violation. In addition, a person who violates this Order may be assessed a civil penalty of up to \$20,000 with respect to each violation.

13. *Cooperation with other agencies.* As authorized by section 258.26 of the Act (3 P.S. § 258.26), the Department will consult with other State agencies and the Pennsylvania State University Cooperative Extension with respect to the most efficacious measures to survey for and detect TCD to slow the spread or eradicate this pest.

14. *Effective Date.* This quarantine is effective as of August 10, 2011, and shall remain in effect until rescinded by subsequent order.

George D. Greig,
Secretary