United States Department of Agriculture

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

BLACK STEM RUST QUARANTINE

QUARANTINE NO. 38

INTRODUCTORY NOTE

An important change in the following revision of the Black Stem Rust Quarantine is the addition of the States of Missouri, Pennsylvania, Virginia, and West Virginia to the list of States previously designated as protected.

Under paragraph A of regulation 3, persons intending to move barberry or mahonia plants other than *Berberis thunbergii* or its rust-resistant varieties into the protected States, shall make application to the Bureau of Entomology and Plant Quarantine, Washington, D. C., not later than June 1 (Sept. 1 for this calendar year). Applications covering shipment proposed to be made during the next fiscal year may be denied if inspection by the Department before the close of the active growing season cannot be arranged.

SUMMARY

Unless a permit has been issued by the United States Department of Agriculture, these regulations as now revised prohibit the movement of *Berberis* or *Mahonia* plants, except *Berberis thunbergii* and its rust-resistant varieties, into or between the States of Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin, and Wyoming. For further details see regulation 2.

Persons intending to move *Berberis* or *Mahonia* plants (except *Berberis thunbergii* or any of its rust-resistant varieties) shall make application for a permit to the Bureau of Entomology and Plant Quarantine, Washington, D. C. See regulation 3 for further details.

Information relative to cancelation of permits, marking requirements, inspection of restricted articles in transit, and shipments by the United States Department of Agriculture are given in regulations 4 to 7 inclusive.

LEE A. STRONG,
Chief, Bureau of Entomology and Plant Quarantine.

NOTICE OF QUARANTINE NO. 38 (REVISED)

(Approved Aug. 4, 1937; effective Sept. 1, 1937)

I, M. L. Wilson, Acting Secretary of Agriculture, have determined that, in order to prevent the spread of a dangerous plant disease known as the black stem rust (*Puccinia graminis*), not heretofore widely prevalent or distributed within and throughout the United States and largely brought under control through the eradication of various susceptible varieties and species of *Berberis* and *Mahonia* in the States of Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin, and Wyoming, it is necessary to quarantine all States of the continental United States and the District of Columbia, in order to prevent the interstate spread of said disease into and among the States named.

Now, therefore, under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the act of March 4, 1917 (39 Stat. 1134, 1165), and having duly given the public hearing required thereby, I do quarantine each and every State of the continental United States and the District of Columbia, effective on and after September 1, 1937. Hereafter, under the authority of said act of August 20, 1912, amended as aforesaid, no plants of common barberry or other species of *Berberis* or *Mahonia*, or parts thereof capable of propagation, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States or District into any of the protected States, namely, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin, and Wyoming, nor from any one of said protected States into any other protected State, in manner or method or under conditions other than those prescribed in the rules and regulations hereinafter made and in amendments thereto.

Done at the city of Washington this 4th day of August 1937.
Witness my hand and the seal of the United States Department of Agriculture.

M. L. WILSON,
Acting Secretary of Agriculture.

REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 38

(Approved Aug. 4, 1937; effective Sept. 1, 1937)

Regulation 1. Definitions

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(a) *Black stem rust*.—The disease known as the black stem rust of grains (*Puccinia graminis*) in any stage of development.

(b) *Berberis*.—Any plants, cuttings, stocks, scions, buds, fruits, seeds, or parts of plants of any species, variety, or hybrid of the genus *Berberis*, capable of propagation; commonly known as barberries.

(c) *Mahonia*.—Any plants, cuttings, stocks, scions, buds, fruits, seeds, or parts of plants of any species, variety, or hybrid of the genera *Mahonia* (*Odos-temon*) or *Mahoberberis*, capable of propagation; commonly known as mahonias, hollygrapes, holly barberries, or Oregon grapes.

(d) *Inspector*.—An inspector of the United States Department of Agriculture.

(e) *Moved or allowed to be moved interstate*.—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State or District of the continental United States into any other State or District.

Regulation 2. Restrictions on the Movement of *Berberis* and *Mahonia*

(a) No *Berberis* or *Mahonia* shall be moved or allowed to be moved interstate from any State of the continental United States or from the District of Columbia into any of the protected States, namely, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia, Wisconsin, and Wyoming, nor from any one of said protected States into any other protected State, unless a permit shall have been issued therefor by the United States Department of Agriculture, except that no restrictions are placed by these regulations on the interstate movement either of Japanese barberry (*Berberis thunbergii*) or any of its rust-resistant varieties, or of cuttings (without roots) of *Mahonia* shipped for decorative purposes and not for propagation.

(b) No *Berberis* or *Mahonia* of species, varieties, or hybrids sufficiently susceptible to infection by black stem rust, in the judgment of the Department, to

involve danger of spread of the rust shall be moved or allowed to be moved interstate into any of the said protected States, and no permit will be issued authorizing such movement.

(c) No restrictions are placed by these regulations on the interstate movement of *Berberis* or *Mahonia* consigned to destinations located outside the 17 protected States named herein.

Regulation 3. Conditions Governing the Issuance of Permits

(a) *Applications*.—Persons intending to move or allow to be moved interstate into any of the protected States any of the articles the movement of which is restricted under regulation 2, shall make application to the Bureau of Entomology and Plant Quarantine, Washington, D. C., for permit as far as possible in advance of the probable date of shipment. Applications received after June 1¹ covering shipments proposed to be made during the following fiscal year may be denied if inspection by the Department before the close of the active growing season cannot be arranged. Applicants will be required to agree that no *Berberis* or *Mahonia* susceptible to infection by black stem rust will be grown in any nursery or nurseries owned or controlled by the applicant or will be distributed by him. The application shall show a complete list of all *Berberis* and *Mahonia* grown by the applicant or proposed to be distributed by him, and the number of plants of each species or variety so grown or to be distributed.

(b) The Department may require such specimens or other evidence as to the identity of the species, varieties, and hybrids grown and may make such inspection as may be necessary to determine such identity. Permits will be issued as to only such species as have proven to the satisfaction of the Department not sufficiently susceptible to infection by black stem rust to involve danger of spread of the rust.

(c) Permits will not be issued for the interstate movement to destinations within the States named in regulation 2 of *Berberis vulgaris* or any of its horticultural varieties or of any other species, hybrids, or varieties of *Berberis* or *Mahonia* sufficiently susceptible to infection by black stem rust, in the judgment of the Department, to involve danger of spread of the rust.

Regulation 4. Cancellation of Permits

Permits issued under these regulations may be withdrawn or canceled by the inspector and further permits refused, either for any failure of compliance with the conditions of these regulations or violation of them, or whenever in the judgment of the inspector the further use of such permits might result in the dissemination of *Berberis* and *Mahonia* susceptible to infection by black stem rust.

Regulation 5. Marking Requirements

Every box, bale, or other container of restricted articles of which inspection is required by these regulations shall be plainly marked with the name and address of the consignor and the name and address of the consignee and shall bear, securely attached to the outside thereof, a valid permit issued by an inspector in compliance with these regulations.

In the case of carload and other bulk shipments, a valid permit shall accompany the waybills, conductors' manifests, memoranda, or bills of lading pertaining to such shipments; or in the case of truck or other road vehicle the permit shall accompany the vehicle.

Regulation 6. Inspection of Restricted Articles in Transit

Any car, vehicle, basket, box, or other container moved or offered to a common carrier for shipment interstate which contains or which the inspector has probable cause to believe contains articles the movement of which is prohibited or restricted by these regulations shall be subject to inspection by an inspector at any time or place.

¹ Sept. 1 in the case of the calendar year 1937.

Regulation 7. Shipments by the United States Department of Agriculture

Articles subject to restriction in these regulations may be moved interstate by the United States Department of Agriculture for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine showing compliance with such conditions.

These revised rules and regulations shall be effective on and after September 1, 1937, and shall on that date supersede the rules and regulations promulgated June 24, 1931, as amended, effective February 20, 1935.

Done at the city of Washington this 4th day of August 1937.
Witness my hand and the seal of the United States Department of Agriculture.

M. L. WILSON,
Acting Secretary of Agriculture.

APPENDIX

PENALTIES

The Plant Quarantine Act of August 20, 1912 (37 Stat. 315), provides that no person shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, * * * or any other article * * * specified in the notice of quarantine * * * in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It also provides that any person who shall violate any of the provisions of this act, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court.