

## Notice of Hearing Concerning: Proposed Permanent Quarantine

Pursuant to the provisions of K.S.A. 2-2117, a hearing will be conducted at 10:00 a.m. on Tuesday, November 18, 2014, in Room 124, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, in the matter of the issuance of a permanent quarantine regarding Thousand Cankers Disease of Walnuts. The proposed quarantine would affect the entire state of Kansas, and would rescind and supersede the existing Thousand Cankers Disease of Walnuts quarantine order, issued on July 20, 2010.

The proposed quarantine order is as follows:

### BEFORE THE SECRETARY OF AGRICULTURE, TOPEKA, KANSAS THOUSAND CANKERS DISEASE OF WALNUTS QUARANTINE

The Secretary of the Kansas Department of Agriculture (Secretary) is authorized to enforce the plant pest and agriculture commodity certification act and rules and regulations promulgated thereunder. K.S.A. 2-2112 *et seq.*, and amendments thereto.

1. WHEREAS The Secretary is authorized to quarantine the state of Kansas, or any portion thereof, when the secretary determines that such action is necessary to prevent or retard the spread of a plant pest, and to quarantine any other state or portion thereof whenever the secretary determines that a plant pest exists therein and that such action is necessary to prevent or retard its spread into the state of Kansas. K.S.A. 2-2112 *et seq.*, and amendments thereto
2. WHEREAS Thousand Cankers Disease of Walnut is a plant pest disease complex involving infestation of walnut trees and plants (*Juglans* sp) by the Walnut Twig Beetle (*Pityophthorus juglandis*) and a fungus *Geosmithia morbida* which eventually kills the walnut tree (*Juglans* sp).
3. WHEREAS Thousand Cankers Disease of Walnut poses a serious threat to walnut trees in Kansas, and places at risk the ability of Kansas producers to produce, sell, and distribute walnut plants (*Juglans* sp) and products intrastate, interstate, and internationally.
4. WHEREAS it is necessary to protect Kansas walnut timber and nut production, walnuts as a landscape species, and the native ecosystem from Thousand Cankers Disease of Walnut and the Walnut Twig Beetle.
5. WHEREAS Thousand Cankers Disease of Walnut and the Walnut Twig Beetle are currently present in many states of the western United States.
6. WHEREAS unregulated articles are transported into many states with the potential of introducing or spreading Thousand Cankers Disease of Walnut and the Walnut Twig Beetle.
7. WHEREAS quarantine action is necessary to prevent the introduction and spread of Thousand Cankers Disease of Walnut and the Walnut Twig Beetle into and within the State of Kansas.

### IT IS THEREFORE ORDERED BY THE SECRETARY THAT:

1. In order to prevent, retard, suppress, and control the spread of the plant pest Thousand Cankers Disease of Walnut, and the Walnut Twig Beetle, the movement of regulated articles into or through the State of Kansas, from any other state, territory, or foreign country, by any person, is prohibited except as set forth in paragraph 5 of this Order, below.
2. In the event that either the Thousand Cankers Disease of Walnut or the Walnut Twig Beetle are discovered within the State of Kansas, this quarantine order will prohibit the movement of regulated articles that are infected with Thousand Cankers Disease of Walnut or infested by the Walnut Twig Beetle, both within the State of Kansas, and from the State of Kansas to any other state, territory, or foreign country, by any person.
3. Except as exempted in paragraph 6 of this Order, below, the following shall be considered "regulated articles" under this quarantine order: all plants, plant parts, and products of the genera *Juglans* or *Pterocarya*; articles of *Juglans* or *Pterocarya*, including, but not limited to: logs, lumber, firewood, bark, mulch, burls, stumps, and packing materials; all life stages of the walnut twig beetle (*Pityophthorus juglandis*); all life stages of the *Geosmithia morbida* fungus.
4. The Secretary may register those persons or facilities handling regulated articles within the State of Kansas.
5. All regulated articles under this Order are prohibited entry into the State of Kansas unless such regulated articles are specifically exempted by this Order or meet the following requirements of certification for pest free status, including all necessary documentation:

- a. All persons intending to import regulated articles into the State of Kansas must register with the Secretary and enter into a compliance agreement that includes handling and documentation guidelines required by the Secretary, unless the articles meet the requirements of paragraph 5.b.ii. below. Such agreements for the purpose of this quarantine are subject to change or revocation by the Secretary without notice. All persons importing regulated articles into the State of Kansas will be subject to inspection fees as set forth in K.S.A. 2-2112 *et seq.*, and amendments thereto, and K.A.R. 4-5-8.
  - b. A regulated article may be imported into the state by one of the following options:
    - i. From the states of Arizona, California, Colorado, Idaho, Indiana, Maryland, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Virginia, Washington, and other states, territories, and foreign countries where the disease has been found to exist or that have not conducted an official survey within five years prior to shipment: A phytosanitary certificate from the state or country of origin declaring one of the following:
      - A. “The article was officially inspected after harvest and found free of the fungus *Geosmithia morbida*, the Walnut Twig Beetle, free of bark, and stored in such a manner to retain freedom from the Walnut Twig Beetle in storage and transit.”
      - B. “The article was heat treated with an inner core temperature of 140 degrees Fahrenheit (60 degrees Celsius) maintained for at least sixty minutes and stored in such a manner to retain freedom from the Walnut Twig Beetle in storage and transit.”
      - C. “The article was treated with Methyl Bromide at 15 pounds per 1000 cubic feet for 24 hours at or above 5 degrees Celsius or 6 pounds of Methyl Bromide per 1000 cubic feet for 24 hours at or above 16 degrees Celsius and stored in such a manner to retain freedom from the Walnut Twig Beetle in storage and transit.”

Any regulated article treated pursuant to paragraph 5.b.i.C must be shipped within 10 days of treatment.
    - ii. From states and territories of the United States and foreign countries that have conducted an official survey within five years prior to shipment, and the state or territory of the United States or foreign country has been found free of Thousand Cankers Disease of Walnut and the Walnut Twig Beetle and has remained free: No phytosanitary certificate is required. These articles do not require a compliance agreement.
  - c. A state phytosanitary certificate for importation into the state of Kansas is valid for thirty (30) days from the time of inspection. The regulated article cannot be physically altered in any way after issuance of the certificate and before entry into the state of Kansas.
6. The following regulated articles are exempt from the requirements of this quarantine order:
  - a. All nuts, nut meat and hulls of the genera *Juglans*.
  - b. Finished wood products, without bark (95% bark free), including walnut furniture, musical instruments, and gun stocks.
  - c. Processed lumber, without bark (95% bark free), with square edges, that has received a heat treatment with a minimum wood core temperature of 140 degrees Fahrenheit (60 degrees Celsius) maintained for at least 60 minutes, which is received from states, territories, or foreign countries where Thousand Cankers Disease of Walnut and the Walnut Twig Beetle have not been detected.
  - d. Nonviable, preserved specimens of the Walnut Twig Beetle (*Pityophthorus juglandis*) and the fungus *Geosmithia morbida* defined below.
7. Terms set forth herein are defined as follows:
  - a. WALNUT: A genus of trees and their hybrids of the genus *Juglans*.
  - b. FUNGUS *Geosmithia morbida*: A species of dry-spored anamorphic fungi that predominate in galleries built by phloem feeding bark beetles and other subcortical insects.
  - c. BARK: (1) The thickened cork layer outside of the cork cambium of the wood composed mostly of dead lignified cells and produced by the formation of multiple layers of periderm, cortical, and phloem tissue; and, (2) the outer layer of a tree stem outside the vascular cambium composed of outer bark (corky tissue) and inner bark (phloem).
  - d. OFFICIAL INSPECTION: An inspection by a state or federal regulatory official trained in the identification of Thousand Cankers Disease of Walnut and Walnut Twig Beetle.
  - e. OFFICIAL SURVEY: A survey conducted by a state regulatory agency or designated agents of wood handling facilities, harvest sites, related articles, and plantings or native stands of walnuts to determine whether Thousand Cankers Disease of Walnut and Walnut Twig Beetle are present in the article’s county of harvest or origin.
  - f. DESIGNATED AGENT: A public official with knowledge and training regarding a pest, facility, or operation whose information is deemed reliable by the Secretary.
8. Pursuant to K.S.A. 2-2112 *et seq.*, and K.S.A. 2-2125, and amendments thereto, any person who knowingly sells, barter, offers for sale, moves, transports, delivers, ships, or offers for shipments, into or within this state, a regulated article in violation of this quarantine order may be subject to criminal prosecution or civil penalties.

In addition, such person may be subject to any and all expenses associated with the destruction or treatment of the regulated articles, or the removal of the regulated articles from the state.

9. Any person or their agent who harvests, removes, disposes, or diagnoses the health of walnut trees, that either suspects or confirms a tree to have Thousand Cankers Disease of Walnut or the Walnut Twig Beetle, must inform the Secretary of the location and disposition of the tree, or the name of the owner of the tree, within fourteen (14) days of such harvest, removal, disposition, or diagnosis. Any movement of such walnut tree is prohibited until the Secretary, or Secretary's authorized representative, has inspected the tree for plant pests, and verified that the tree is free of *Geosmithia morbida* and the Walnut Twig beetle.
10. The Secretary may conduct annual inspections and surveys of walnut harvest sites; timber mills and related facilities handling raw wood products or articles; and, planted and native stands of walnut trees within the state of Kansas for Thousand Cankers Disease of Walnut and the Walnut Twig Beetle.
11. The Secretary may, without further hearing, take further action not specified in this quarantine order if deemed necessary by the Secretary to protect walnut trees within the State of Kansas. Such action may include eradication and suppression activities, and the destruction of trees and articles.
12. This quarantine order shall become effective on the date it is signed by the Secretary and shall remain in effect until rescinded or modified by order of the Secretary. This quarantine order rescinds and supersedes the prior quarantine order dated July 20, 2010.

**IT IS SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014 IN TOPEKA, SHAWNEE COUNTY, KANSAS.**

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Jackie McClaskey, Secretary  
Kansas Department of Agriculture

All interested persons may attend the hearing and will be given the opportunity to express comments either orally or in writing, or both. Interested parties may appear in person or by counsel.

Written comments and requests for information concerning the proposed quarantine should be directed to Jeff Vogel, Plant Protection & Weed Control Program Manager, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, [jeff.vogel@kda.ks.gov](mailto:jeff.vogel@kda.ks.gov), at or before the time of hearing. Comments may also be made through our website by accessing the department's website at <https://agriculture.ks.gov/document-services/public-comment>. For persons intending to present oral testimony at the hearing, prior notice to the department would be helpful in arranging the agenda. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing, and may request the quarantine in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Leslie Garner at 785-564-6715 or fax (785) 564-6777. Handicapped parking is located in the west parking lot and the entrance to the building is accessible to individuals with disabilities.

Jackie McClaskey  
Secretary of Agriculture