subject to treatment or disposal under the provisions of this Act or the regulations issued thereunder;'' after ''subject to this chapter;''.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrate'' substituted for ''United States commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 150gg. Violations

(a) Criminal penalties

Any person who—

(1) knowingly violates section 150bb of this title or any regulation promulgated under this chapter;

(2) knowingly forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document;

shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

(b) Civil penalty

Any person who—

(1) violates section 150bb of this title or any regulation promulgated under this chapter;

(2) forges or counterfeits any permit or other document provided for by this chapter or by any such regulation; or

(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Pub. L. 85–36, title I, § 108, May 23, 1957, 71 Stat. 34; Pub. L. 97–461, § 1(b), Jan. 12, 1983, 96 Stat. 2523.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

AMENDMENTS

1983—Pub. L. 97–461 designated existing provisions as subsec. (a), divided existing provisions among pars. (1) through (3), substituted ''$5,000'' for ''$500'', and added subsec. (b).

§ 150hh. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Pub. L. 85–36, title I, § 109, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

§ 150ii. Authority as additional

The authority conferred by this chapter shall be in addition to authority conferred by other statues not specifically repealed hereby.

(Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 34.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

CODIFICATION

Section constitutes first sentence of section 111 of Pub. L. 85–36. Second sentence of section 111 is classified as section 150jj of this title. Third sentence of section 111 repealed sections 141 to 144, and 441 of this title. Remainder of section 111 is set out as a note under section 147a of this title.

§ 150jj. Plant Quarantine Act unaffected

Nothing in this chapter shall amend or repeal any of the provisions of the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(Pub. L. 85–36, title I, § 111, May 23, 1957, 71 Stat. 35.)

REFERENCES IN TEXT

In the original, ''this chapter'' was ''this Act''. See note set out under section 150aa of this title.

The Plant Quarantine Act, referred to in text, is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§ 151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

CODIFICATION

Section constitutes second sentence of section 111 of Pub. L. 85–36. For disposition of remainder of section 111, see Codification note set out under section 150ii of this title.

CHAPTER 8—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

Sec.
151. ''Person'' defined.
152. ''Nursery stock'' defined.
153. Liability of principal for act of agent.
154. Importation of nursery stock.
(a) In general.
(b) Regulations.
155. Importation for scientific purposes permitted.
156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment.
157. Marking packages, etc., for entry.
158. Marking packages, etc., for interstate shipment; inspection.
159. Regulations by Secretary restricting importation of plants, etc., other than ''nursery stock''.
160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective.

Sec.
161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation.
161a. Omitted.
162. Rules and regulations.
163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty.
164. Duty of United States attorneys to prosecute.
164a. Enforcement of quarantine against nursery stock and plant products; search and seizure.
165, 165a. Repealed or Omitted.
166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by United States Postal Service.
167. Rules governing District of Columbia.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 150aa, 150dd, 150ee, 150jj, and 2811 of this title; title 39 sections 3014, 3015.

§ 151. "Person" defined

The word ''person'' as used in this chapter shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is comprised of a part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 153 of this title.

EFFECTIVE DATE

Section 14 of act Aug. 20, 1912, provided: ''That this Act [enacting this chapter] shall become and be effective from and after the first day of October, nineteen hundred and twelve, except as herein otherwise provided.''

SHORT TITLE

Act Aug. 20, 1912, as amended, which is classified to this chapter is popularly known as the ''Nursery Stock Quarantine Act'' and the ''Plant Quarantine Act''.

CROSS REFERENCES

Words denoting number, etc., see section 1 of Title 1, General Provisions.

§ 152. "Nursery stock" defined

For the purpose of this chapter the term ''nursery stock'' shall include all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

(Aug. 20, 1912, ch. 308, § 6, 37 Stat. 317.)

CROSS REFERENCES

Regulations restricting importation of plants, etc., other than nursery stock, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title; title 39 section 3014.

§ 153. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

(Aug. 20, 1912, ch. 308, § 11, 37 Stat. 319.)

CODIFICATION

Section is composed of part of section 11 of act Aug. 20, 1912. Other provisions of section 11 are classified to section 151 of this title.

§ 154. Importation of nursery stock

(a) In general

No person shall—

(1) import or enter into the United States any nursery stock; or

(2) accept delivery of any nursery stock moving from any foreign country into or through the United States;

unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

(b) Regulations

The regulations promulgated by the Secretary of Agriculture to implement subsection (a) of this section may include regulations requiring that nursery stock moving into or through the United States—

(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infected with plant diseases, not discernible by port-of-entry inspection; and

(4) if the nursery stock is found to be infested with plant pests or insect pests or infected with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases.

(Aug. 20, 1912, ch. 308, § 1, 37 Stat. 315; July 31, 1947, ch. 405, 61 Stat. 680; Sept. 28, 1988, Pub. L. 100–449, title III, § 301(f)(3)(A), 102 Stat. 1869; Dec. 8, 1994, Pub. L. 103–465, title IV, § 431(d)(1), 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103–465 amended section generally, substituting present provisions for provisions outlining general restrictions on importation of nursery stock into the United States along with exceptions to such restrictions.

1988—Pub. L. 100–449 struck out ''*Provided*'' the first place it appeared and inserted in lieu thereof ''*Provided*, That the Secretary of Agriculture may waive the permit requirement for nursery stock imported or offered for entry from Canada: *Provided further*''.

1947—Act July 31, 1947, inserted last proviso.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 155. Importation for scientific purposes permitted

Any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products of which the importation may be forbidden from any country or locality under the provisions of section 160 of this title may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe.

(Mar. 4, 1913, ch. 145, § 1 [part], 37 Stat. 854.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1914, and not as part of the ''Plant Quarantine Act'' which comprises this chapter.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 156. Notification of arrival at port of entry; forwarding without notification forbidden; inspection before shipment

It shall be the duty of the Secretary of the Treasury promptly to notify the Secretary of Agriculture of the arrival of any nursery stock at port of entry. The person receiving such stock at port of entry shall, immediately upon entry and before such stock is delivered for shipment or removed from the port of entry, advise the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or the District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, of the name and address of the consignee, the nature and quantity of the stock it is proposed to ship, and the country and locality where the same was grown. No person shall ship or offer for shipment from one State or Territory or District of the United States into any other State or Territory or District, any nursery stock imported into the United States without notifying the Secretary of Agriculture or, at his direction, the proper State, Territorial, or District official of the State or Territory or District to which such nursery stock is destined, or both, as the Secretary of Agriculture may elect, immediately upon the delivery of the said stock for shipment, of the name and address of the consignee, of the nature and quantity of stock it is proposed to ship, and the country and locality where the same was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States. This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section.

(Aug. 20, 1912, ch. 308, § 2, 37 Stat. 316; Sept. 28, 1988, Pub. L. 100–449, title III, § 301(f)(3)(B), 102 Stat. 1869; Dec. 8, 1994, Pub. L. 103–465, title IV, § 431(d)(2), 108 Stat. 4968.)

AMENDMENTS

1994—Pub. L. 103–465 amended last sentence generally. Prior to amendment, last sentence read as follows: ''This section shall not apply to nursery stock that arrives from, or is imported from, Canada.''

1988—Pub. L. 100–449 inserted at end ''This section shall not apply to nursery stock that arrives from, or is imported from, Canada.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 157. Marking packages, etc., for entry

No person shall import or offer for entry into the United States any nursery stock unless the

case, box, package, crate, bale, or bundle thereof shall be plainly and correctly marked to show the general nature and quantity of the contents, the country and locality where the same was grown, the name and address of the shipper, owner, or person shipping or forwarding the same, and the name and address of the consignee.

(Aug. 20, 1912, ch. 308, § 3, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a state maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 158. Marking packages, etc., for interstate shipment; inspection

No person shall ship or deliver for shipment from one State or Territory or District of the United States into any other State or Territory or District any such imported nursery stock the case, box, package, crate, bale, or bundle whereof is not plainly marked so as to show the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where such stock was grown, unless and until such imported stock has been inspected by the proper official of a State, Territory, or District of the United States.

(Aug. 20, 1912, ch. 308, § 4, 37 Stat. 316.)

CROSS REFERENCES

Plants, etc., other than nursery stock as subject to provisions of this section, see section 159 of this title.

Prohibition against mailing packages into a State maintaining terminal inspection without marking the contents on the outside, see section 166 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 159 of this title.

§ 159. Regulations by Secretary restricting importation of plants, etc., other than "nursery stock"

Whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plants, fruits, vegetables, roots, bulbs, seeds, or other plant products not included by the term ''nursery stock'' as defined in section 152 of this title may result in the entry into the United States or any of its Territories or Districts of injurious plant diseases or insect pests he shall promulgate his determination, specifying the class of plants and plant products the importation of which shall be restricted and the country and locality where they are grown, and thereafter, and until such promulgation is withdrawn, such plants and plant products imported or offered for import into the United States or any of its Territories or Districts shall be subject to all the provisions of sections 154 and 156 to 158 of this title.

(Aug. 20, 1912, ch. 308, § 5, 37 Stat. 316; Jan. 8, 1983, Pub. L. 97–432, § 1(1), 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97–432 struck out provision directing the Secretary to hold a hearing before promulgating a determination under this section.

§ 160. Regulations by Secretary restricting importation from insect-infested locality; when quarantine effective

Whenever, in order to prevent the introduction into the United States of any tree, plant, or fruit disease or of any injurious insect, new to or not theretofore widely prevalent or distributed within and throughout the United States, the Secretary of Agriculture shall determine that it is necessary to forbid the importation into the United States of any class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products from a country or locality where such disease or insect infestation exists, he shall promulgate such determination, specifying the country and locality and the class of nursery stock or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products which, in his opinion, should be excluded. Following the promulgation of such determination by the Secretary of Agriculture, and until the withdrawal of the said promulgation by him, the importation of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products specified in the said promulgation from the country and locality therein named, regardless of the use for which the same is intended, is hereby prohibited; and until the withdrawal of the said promulgation by the Secretary of Agriculture, and notwithstanding that such class of nursery stock, or other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products be accompanied by a certificate of inspection from the country of importation, no person shall import or offer for entry into the United States from any country or locality specified in such promulgation, any of the class of nursery stock or of other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products named therein, regardless of the use for which the same is intended: *Provided*, That the quarantine provisions of this section, as applying to the white-pine blister rust, potato wart, and the Mediterranean fruit fly, shall become and be effective on August 20, 1912.

(Aug. 20, 1912, ch. 308, § 7, 37 Stat. 317; Jan. 8, 1983, Pub. L. 97–432, § 1(2), 96 Stat. 2276.)

AMENDMENTS

1983—Pub. L. 97–432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity of forbidding importation.

EFFECTIVE DATE

Section effective Oct. 1, 1912, see note set out under section 151 of this title.

CROSS REFERENCES

Importation for scientific purposes permitted, see section 155 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 155 of this title.

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States. 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 other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public interests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District: *Provided*, That if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *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 hereinabove provided, nothing in this chapter 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 authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, 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 chapter 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.

(Aug. 20, 1912, ch. 308, § 8, 37 Stat. 318; Mar. 4, 1917, ch. 179, 39 Stat. 1165; Apr. 13, 1926, ch. 135, 44 Stat. 250; Oct. 10, 1978, Pub. L. 95–439, § 4, 92 Stat. 1062; Jan. 8, 1983, Pub. L. 97–432, § 1(3), 96 Stat. 2276; Apr. 4, 1996, Pub. L. 104–127, title IX, § 911, 110 Stat. 1185.)

AMENDMENTS

1996—Pub. L. 104–127, in fourth sentence, inserted ''if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That'' after ''*Provided*, That''.

1983—Pub. L. 97–432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity to quarantine.

1978—Pub. L. 95–439 struck out provisions requiring the Secretary of Agriculture to give notice of the establishment of a quarantine to common carriers doing business in or through the quarantined area, to publish notice of the establishment of the quarantine in newspapers in the quarantined area, and to give notice of the rules and regulations provided for in this section for the notice of establishment of quarantine.

1926—Act Apr. 13, 1926, inserted last three provisos.

1917—Act Mar. 4, 1917, substituted ''that such quarantine is necessary to prevent the spread of'' for ''the

fact that,'' in first sentence, inserted ''or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infection'' after the first three references to ''seeds, or other plant products,'', and inserted ''when the public interest will permit'' after ''That it shall be the duty of the Secretary of Agriculture''.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3014.

§ 161a. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1945, act June 28, 1944, ch. 296, 58 Stat. 440, related to disposition of moneys from inspection and certification of domestic plants and plant products for export, and was not repeated in subsequent appropriation acts. Similar provisions were contained in prior appropriation acts as follows:

July 12, 1943, ch. 215, 57 Stat. 408.
July 22, 1942, ch. 516, 56 Stat. 686.

§ 162. Rules and regulations

The Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this chapter.

(Aug. 20, 1912, ch. 308, § 9, 37 Stat. 318.)

§ 163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty

Any person who knowingly violates any provision of this chapter or any rule or regulation promulgated by the Secretary of Agriculture under this chapter, or who knowingly forges or counterfeits any certificate provided for in this chapter or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318; Jan. 12, 1983, Pub. L. 97–461, § 2, 96 Stat. 2523.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 164 and 164a of this title. Section is also set out in D.C. Code, § 6–1105.

AMENDMENTS

1983—Pub. L. 97–461 added the element of knowledge to the definition of all violations, added use and the lack of authority from the Secretary to the definition of the group of violations including alteration, defacement or destruction of certificates, substituted criminal penalties of a fine not exceeding $5,000 or a year's imprisonment or both for a fine of $500 or a year's imprisonment or both in the discretion of the court, inserted provisions relating to civil penalties, and struck out provision that no common carrier would be deemed to have violated sections 152, 154, 156 to 161, and 162 of this title on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such in the United States.

CROSS REFERENCES

District of Columbia, violation of rules and regulations, see section 167 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167 of this title.

§ 164. Duty of United States attorneys to prosecute

It shall be the duty of the United States attorneys diligently to prosecute any violations of this chapter which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164a of this title. Section is also set out in D.C. Code, § 6–1105.

§ 164a. Enforcement of quarantine against nursery stock and plant products; search and seizure

Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of this chapter and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of this chapter, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of this chapter, or of such quarantine or order.

(Aug. 20, 1912, ch. 308, § 10, as added May 1, 1928, ch. 462, 45 Stat. 468.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164 of this title.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

§ 165. Repealed. Pub. L. 88–448, title IV, § 402(a)(13), Aug. 19, 1964, 78 Stat. 493

Section, act Aug. 20, 1912, ch. 308, § 12, 37 Stat. 319, related to appointment of members of a Federal Horticultural Board from among employees of Department of Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88–448.

§ 165a. Omitted

CODIFICATION

Section, act May 16, 1928, ch. 572, 45 Stat. 565, provided that the functions of the Federal Horticultural Board should devolve upon and be exercised by the Plant Quarantine and Control Administration. Said act also created an Advisory Federal Plant Quarantine Board which was abolished by act Mar. 3, 1933, ch. 203, 47 Stat. 1463. Appropriations to enable the Secretary of Agriculture to carry into effect the provisions of this chapter, which in prior appropriation acts had been made to the Plant Quarantine and Control Administration, were made to the Bureau of Plant Quarantine by the appropriation act of July 7, 1932, ch. 443, 47 Stat. 640, and to the Bureau of Entomology and Plant Quarantine by the appropriation act of Mar. 26, 1934, ch. 89, 48 Stat. 486, and subsequent appropriation acts.

§ 166. State terminal inspection; transmission of mailed packages for State inspection; nonmailable matter; punishment for violations; rules and regulations by United States Postal Service

When any State shall provide for terminal inspection of plants and plant products, and shall establish and maintain, at the sole expense of the State, such inspection at one or more places therein, the proper officials of said State may submit to the Secretary of Agriculture a list of plants and plant products and the plant pests transmitted thereby, that in the opinion of said officials should be subject to terminal inspection in order to prevent the introduction or dissemination in said State of pests injurious to agriculture. Upon his approval of said list, in whole or in part, the Secretary of Agriculture shall transmit the same to the United States Postal Service, and thereafter all packages containing any plants or plant products named in said approved lists shall, upon payment of postage therefor, be forwarded by the postmaster at the destination of said package to the proper State official at the nearest place where inspection is maintained. If the plants or plant products (including seed) are found upon inspection to be free from injurious pests and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, or if infected shall be disinfected by said official, they shall upon payment of postage therefor be returned to the postmaster at the place of inspection to be forward[1] to the person to whom they are addressed; but if found to be infected with injurious pests and incapable of satisfactory disinfection or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests, the State inspector shall so notify the postmaster at the place of inspection who shall promptly notify the sender of said plants or plant products that they will be returned to him upon his request and at his expense, or in default of such request that they will be turned over to the State authorities for destruction.

It shall be unlawful for any person, firm, or corporation to deposit in the United States mails any package containing any plant or plant product addressed to any place within a State maintaining inspection thereof, as herein defined, without plainly marking the package so that its contents may be readily ascertained by an inspection of the outside thereof. Whoever shall fail to so mark said packages shall be punished by a fine of not more than $100.

The United States Postal Service is authorized and directed to make all needful rules and regulations for carrying out the purposes hereof.

(Mar. 4, 1915, ch. 144, 38 Stat. 1113; June 4, 1936, ch. 495, 49 Stat. 1461; Aug. 12, 1970, Pub. L. 91–375, § 4(a), 84 Stat. 773.)

CODIFICATION

Section was enacted as part of the Agricultural Appropriation Act, 1916, and not as part of the "Plant Quarantine Act" which comprises this chapter.

AMENDMENTS

1936—Act June 4, 1936, amended last sentence of first par. by changing introductory word "plant" to "plants", inserting "(including seed)", "and not in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests", "or in violation of a plant-quarantine law or plant-quarantine regulation of the United States Department of Agriculture or of the State of destination pertaining to such injurious pests," and striking out the comma after "place of inspection".

SHORT TITLE

This section is popularly known as the "Terminal Inspection Act."

TRANSFER OF FUNCTIONS

In first and third pars., "United States Postal Service" substituted for "Postmaster General" pursuant to Pub. L. 91–375, § 4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

[1] So in original.

§ 167. Rules governing District of Columbia

Prohibition against shipment generally.—In order further to control and eradicate and to prevent the dissemination of dangerous plant diseases and insect infections and infestations no plant or plant products for or capable of propagation, including nursery stock, hereinafter referred to as plants and plant products, shall be moved or allowed to be moved, shipped, transported, or carried by any means whatever into or out of the District of Columbia, except in compliance with such rules and regulations as shall be prescribed by the Secretary of Agriculture as hereinafter provided.

Eradication by owner.—Whenever the Secretary of Agriculture, after investigation, shall determine that any plants and plant products in the District of Columbia are infested or infected with insect pests and diseases and that any place, articles, and substances used or connected therewith are so infested or infected, written notice thereof shall be given by him to the owner or person in possession or control thereof, and such owner or person shall forthwith control or eradicate and prevent the dissemination of such insect pest or disease and shall remove, cut, or destroy such infested and infected plants, plant products, and articles and substances used or connected therewith, which are declared to be nuisances, within the time and in the manner required in said notice or by the rules and regulations of the Secretary of Agriculture.

Eradication by Secretary of Agriculture.—Whenever such owner or person cannot be found, or shall fail, neglect, or refuse to comply with the foregoing provisions of this section, the Secretary of Agriculture is authorized and required to control and eradicate and prevent dissemination of such insect pest or disease and to remove, cut, or destroy infested or infected plants and plant products and articles and substances used or connected therewith, and the United States shall have an action of debt against such owner or persons for expenses incurred by the Secretary of Agriculture in that behalf.

Inspection.—Employees of the Bureau of Entomology and Plant Quarantine are authorized and required to inspect places, plants, and plant products and articles and substances used or connected therewith whenever the Secretary of Agriculture shall determine that such inspections are necessary for the purposes of this section.

Entry upon premises; opening packages; destruction of plants, etc.—For the purpose of carrying out the provisions and requirements of this section and of the rules and regulations of the Secretary of Agriculture made hereunder, and the notices given pursuant thereto, employees of the Bureau of Entomology and Plant Quarantine shall have power with a warrant to enter into or upon any place and open any bundle, package, or other container of plants or plant products whenever they shall have cause to believe that infections or infestations of plant pests and diseases exist therein or thereon, and when such infections or infestations are found to exist, after notice by the Secretary of Agriculture to the owner or person in possession or control thereof and an opportunity by said owner or person to be heard, to destroy the infected or infested plants or plant products contained therein.

Search warrants.—The Superior Court of the District of Columbia shall have power, upon information supported by oath or affirmation showing probable cause for believing that there exists in any place, bundle, package, or other container in the District of Columbia any plant or plant product which is infected or infested with plant pests or disease, to issue warrants for the search for and seizure of all such plants and plant products.

Rules and regulations.—It shall be the duty of the Secretary of Agriculture, and he is required, from time to time, to make and promulgate such rules and regulations as shall be necessary to carry out the purposes of this section, and any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plant or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in section 163 of this title.

(Aug. 20, 1912, ch. 308, § 15, as added May 31, 1920, ch. 217, 41 Stat. 726; amended May 16, 1928, ch. 572, 45 Stat. 565; July 7, 1932, ch. 443, 47 Stat. 640; Mar. 26, 1934, ch. 89, 48 Stat. 486; Apr. 1, 1942, ch. 207, §§ 1, 4, 56 Stat. 190, 192; July 8, 1963, Pub. L. 88–60, §§ 1, 7, 77 Stat. 77, 78; July 29, 1970, Pub. L. 91–358, title I, § 155(a), 84 Stat. 570.)

CODIFICATION

Section is also set out in D.C. Code, § 6–1104.

CHANGE OF NAME

In penultimate par., ''Superior Court of the District of Columbia'' substituted for ''District of Columbia Court of General Sessions'' on authority of Pub. L. 91–358.

''District of Columbia Court of General Sessions'' was the designation given to the ''Municipal Court for the District of Columbia'' by Pub. L. 88–60, §§ 1, 7, July 8, 1963, 77 Stat. 77, 78, which provided that, eff. Jan. 1, 1963, whenever reference is made in any Act of Congress to the ''Municipal Court for the District of Columbia'', such reference shall be held to be a reference to the ''District of Columbia Court of General Sessions.''

Police Court of District of Columbia and Municipal Court of District of Columbia consolidated into a single court known as ''The Municipal Court for the District of Columbia'' and powers and jurisdiction of such courts transferred thereto by act Apr. 1, 1942, ch. 207, §§ 1, 4, 56 Stat. 190, 192.

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

Functions of Bureau of Entomology and Plant Quarantine transferred to Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees.

''Bureau of Entomology and Plant Quarantine'' substituted in text for ''Federal Horticultural Board'' by acts May 16, 1928, July 7, 1932, and Mar. 26, 1934. See note under section 165a of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150ff of this title.

CHAPTER 8A—RUBBER AND OTHER CRITICAL AGRICULTURAL MATERIALS

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SUBCHAPTER I—GENERAL PROVISIONS

§ 171. Program for development of guayule and other rubber-bearing plants

The Secretary of Agriculture (hereinafter called the ''Secretary'') is authorized—

(1) To acquire by purchase, license, or other agreement, the right to operate under processes or patents relating to the growing and harvesting of guayule or the extraction of rubber therefrom, and such properties, processes, records, and data as are necessary to such operation, including but not limited to any such rights owned or controlled by the Intercontinental Rubber Company, or any of its subsidiaries, and all equipment, materials, structures, factories, real property, seed, seedlings, growing shrub, and other facilities, patents and processes of the Intercontinental Rubber Company, or any of its subsidiaries, located in California, and for such rights, properties, and facilities of the Intercontinental Rubber Company or any of its subsidiaries, the Secretary is authorized to pay not to exceed $2,000,000;

(2) To plant, or contract for the planting of, not in excess of five hundred thousand acres of guayule in areas in the Western Hemisphere where the best growth and yields may be expected in order to maintain a nucleus planting of guayule to serve as a domestic source of crude rubber as well as of planting material for use in further expanding guayule planting to meet emergency needs of the United States for crude rubber; to establish and maintain nurseries to provide seedlings for field plants; and to purchase necessary equipment, facilities, land for nurseries and administrative sites and water rights;

(3) To acquire by lease, or other agreement, for not exceeding ten years, rights to land for the purpose of making plantings of guayule; to acquire water rights; to erect necessary buildings on leased land where suitable land cannot be purchased; to make surveys, directly or through appropriate Government agencies, of areas in the Western Hemisphere where guayule might be grown; and to establish and maintain records indicating areas to which guayule cultivation could be extended for emergency production;

(4) To construct or operate, or to contract for the operation of, factories for the extraction of rubber from guayule, and from Chrysothamnus, commonly known as rabbit brush; to purchase guayule shrub; and to purchase, operate, and maintain equipment for the harvesting, storing, transporting, and complete processing of guayule, and Chrysothamnus, commonly known as rabbit brush, and to purchase land as sites for processing plants;

(5) To conduct studies, in which he may cooperate with any other public or private agency, designed to increase the yield of guayule by breeding to by selection, and to improve planting methods; to make surveys of areas suitable for cultivating guayule; to make experimental plantings; and to conduct agronomic tests;

(6) To conduct tests, in which he may cooperate with any other public or private agency, to determine the qualities of rubber obtained from guayule and to determine the most favorable methods of compounding and using guayule in rubber manufacturing processes;

(7) To improve methods of processing guayule shrubs and rubber and to obtain and hold patents on such new processes;