



STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
108 AIRLINE DRIVE
ALBANY, NEW YORK 12235

Division of Plant Industry
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MEMORANDUM

TO: Stone Fruit Growers
Nursery Growers
Nursery Dealers
FROM: Robert J. Mungari, Director
DATE: October 19, 2007
SUBJECT: Plum Pox Virus Quarantine - Revised

Earlier this year (July) an emergency order was enacted in response to the detection of PPV in Niagara County. This correspondence is to notify you of a revision of the existing quarantine in response to five (5) additional detections in 2007. A map of the original quarantine area and the newly revised quarantine are attached for your information and records. The revised Part 140 is also provided.

If you operate within a **regulated area** you may no longer handle regulated Prunus nursery stock (see attachment). Propagation and the handling/selling of regulated articles are prohibited. If you are located within the areas designated as regulated and deal in Prunus nursery stock contact your State Horticultural Inspector immediately for assistance.

If you grow susceptible stone fruit you are prohibited from planting new blocks. Any replacement plantings must be approved by federal and state plant pest regulatory officials.

The revised PPV quarantine map identifies four (4) regulated areas.

The Nursery Stock Regulated area in Niagara County has been expanded accordingly to reflect the 4 additional PPV detections. A Nursery Stock Regulated area has been established in Orleans County in response to a single detection of PPV. Please review the revised map dated October 10, 2007.

If you are a nursery grower or nursery dealer and are within a Nursery Stock Regulated area you must enter into a **compliance agreement** with the Department if you wish to **handle/sell regulated** Prunus nursery stock. The agreement prohibits the propagation of regulated articles; requires all

regulated nursery stock to be containerized, prohibits regulated articles from being planted in the ground and the carry over of containerized stock from one year to the next.

Additionally, you cannot sell regulated materials intended for planting in the regulated areas. Sales records must be maintained for a period of 2 years and made available to State Inspectors upon request. You are prohibited from digging regulated material for any purpose. The failure to comply with these terms will prohibit you from handling/selling regulated Prunus nursery stock.

We are presently in the process of notifying all affected growers and all licensed establishments of these requirements. If you are impacted by this action and have not been contacted by a State Horticultural Inspector please contact him/her immediately.

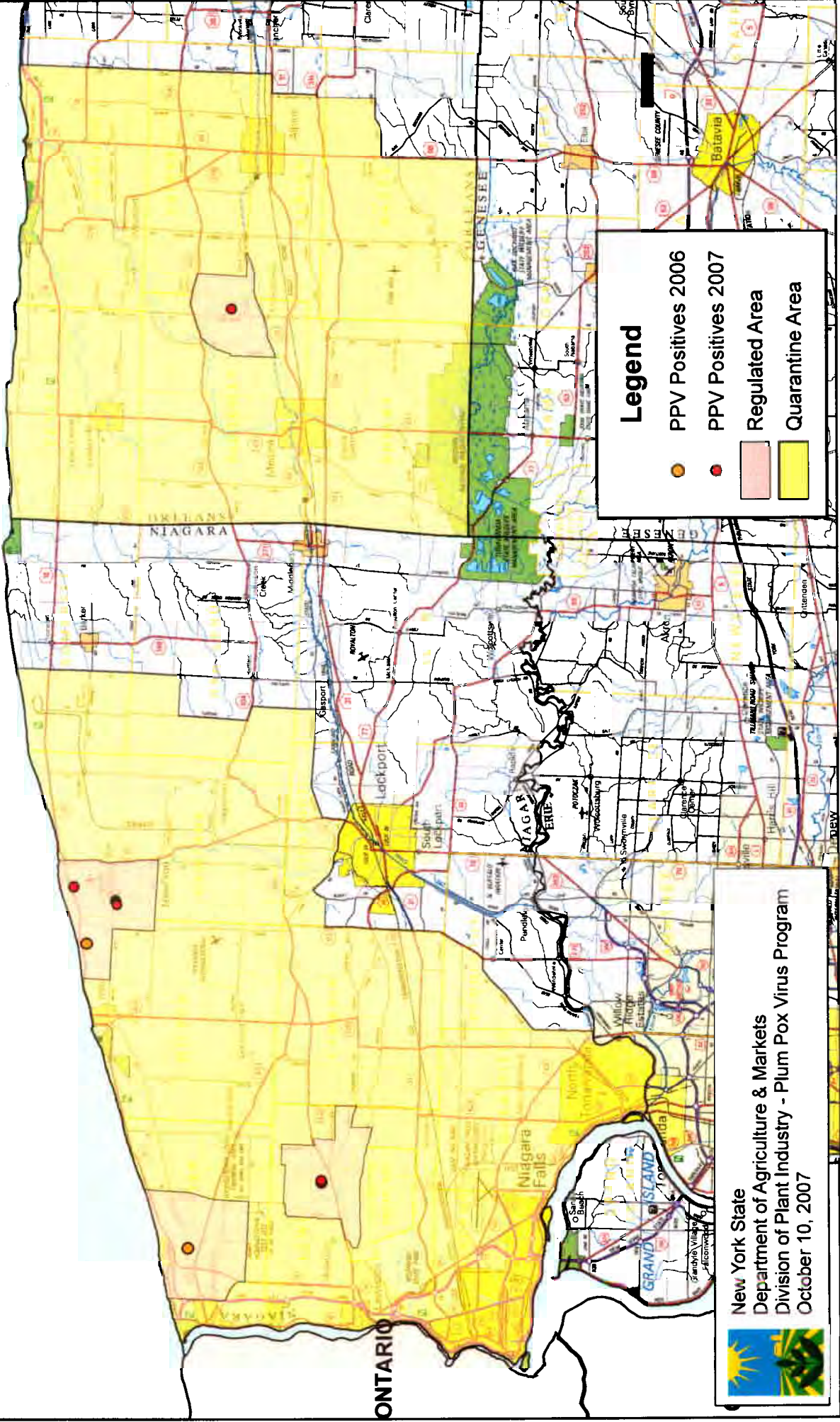
The State Horticultural Inspector for Niagara and Erie Counties is William Ellsworth (716) 834-3060. State Horticultural Inspector Gary Sphar (585) 591-1273 provides coverage of Orleans County. The Region 3 Supervisor is Raymond Jablonski (716) 938-9837.

Together with your continued cooperation and assistance we hope to minimize the impact of PPV on the State's stone fruit growers and nursery stock growers and dealers. Should you have any questions regarding this action please contact my office at (800) 554-4501, Ext. 2087. Thank you.

mh
Att.

cc: Deputy Commissioner Jacqueline Moody-Czub
John Tauzel, New York Farm Bureau
Kim Tiberia, Executive Director, NYS Nursery Landscape Association
Deborah Breth, Cornell Cooperative Extension
Don Albright, National PPV Director, USDA-APHIS-PPQ
Yvonne DeMarino, SPHD-NY, USDA-APHIS-PPQ

Plum Pox Virus Quarantine for: Orchard and Nursery - Greenhouse Production



Plum Pox Susceptible Species of Prunus:

Fruit bearing and ornamental varieties of:

<i>Prunus americana</i>	-American plum and wild plum
<i>Prunus ameniaca</i>	-apricot
<i>P. cerasifera</i>	-Myrobalan plum/cherry plum
<i>P. domestica</i>	-European plum
<i>P. dulcis</i>	-Sweet almond
<i>P. peresica persica</i>	-peach/flowering peach
<i>P. persica nucipersica</i>	-nectarine
<i>P. salicina</i>	-Japanese plum

Ornamental varieties of:

<i>P. cerasifera</i>	-purple leaf plum
<i>P. cistena</i>	-purple leaf sand cherry
<i>P. glandulosa</i>	-flowering almond
<i>P. persica</i>	-flowering peach and purple leaf peach
<i>P. pumila</i>	-sand cherry
<i>P. spinosa</i>	-black thorn and sloe
<i>P. serrulata</i>	-Japanese flowering cherry and Kwanzan cherry
<i>P. tomentosa</i>	-Nanking cherry and Hansen's bush cherry
<i>P. triloba</i>	-Flowering/double flowering plum

PART 140. CONTROL OF THE PLUM POX VIRUS (POTYVIRUS DIDERON STRAIN)

(Statutory authority: Agriculture and Markets Law sections 18, 164 and 167)

Section 140.1	Definitions.
Section 140.2	Quarantined area.
Section 140.3	Regulated area.
Section 140.4	Nursery stock regulated area
Section 140.5	Conditions governing the propagation of regulated articles.
Section 140.6	Conditions governing the intrastate movement of regulated articles.
Section 140.7	Records
Section 140.8	Conditions governing the issuance of certificates and permits.
Section 140.9	Inspection and disposition of shipments.
Section 140.10	Assembly of regulated articles for inspection.
Section 140.11	Marking requirements.
Section 140.12	Shipments for experimental and scientific purposes.

Section 140.1 Definitions.

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

(a) *Certificate* means a certificate issued or authorized to be issued by the Commissioner, certifying the eligibility of products for intrastate movement under the requirements of this Part.

(b) *Commissioner* means the Commissioner of Agriculture and Markets of the State of New York and any officer or employee of the New York State Department of Agriculture and Markets or the United States Department of Agriculture duly delegated pursuant to section 17 of the Agriculture and Markets Law.

(c) *Compliance agreement* means an agreement approved by the Commissioner and executed by persons or firms, covering the restricted movement, processing, handling or utilization of regulated articles not eligible for certification for intrastate movement.

(d) *Infection* means the presence of plum pox virus.

(e) *Inspector* means an inspector of the New York State Department of Agriculture and Markets, or representatives of the United States Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS), when authorized to act in that capacity.

(f) *Limited permit* means a permit issued by the Commissioner for the planting of regulated articles in the nursery stock regulated area for the restricted movement of

regulated articles from a regulated area to a specified destination for specified processing, handling or utilization.

(g) *Moved* and *movement* means 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 the regulated area.

(h) *Nursery dealer* means any person, firm, partnership, association or corporation which or who is not a nursery grower or an original producer of nursery stock in the State and which or who buys, or acquires, or receives on consignment nursery stock for the purpose of reselling, transporting, or otherwise disposing of same.

(i) *Nursery grower* means the owner or operator of the grounds or premises, private or public, on or which nursery stock is propagated, grown or cultivated for the purpose of distribution or selling the same as a business. The term nursery grower shall not include persons engaged in the part-time production of plant products not sold in the regular channels of business.

(j) *Nursery stock* means all trees, shrubs, plants and vines and parts thereof.

(k) *Nursery stock regulated area* means any area so designated by this Part, which is within 11.5 kilometers of any location where plum pox virus has been detected within the preceding three years.

(l) *Plum pox virus* means the plum pox potyvirus Dideron strain, which is a pathogen affecting susceptible *Prunus* species.

(m) *Quarantined area* means the area designated as quarantined by this Part.

(n) *Regulated area* means an area designated as regulated pursuant to this Part due to the presence of plum pox virus in that area.

(o) *Regulated articles* means plant and plant materials, including trees, seedlings, root stock, budwood, branches, twigs and leaves of the following varieties of the *Prunus* species:

(1) Fruit-bearing and ornamental varieties of *Prunus americana* (American plum and wild plum); *Prunus armeniaca* (apricot); *Prunus cerasifera* (Myrobalan plum/cherry plum); *Prunus domestica* (European plum); *Prunus dulcis* (sweet almond); *Prunus peresica* var. *persica* (peach and flowering peach); *Prunus persica* var. *nucipersica* (nectarine); and *Prunus salicina* (Japanese plum).

(2) Ornamental varieties of *Prunus cerasifera* (purple leaf plum); *Prunus x cistena* (purple leaf sand cherry); *Prunus glandulosa* (flowering almond); *Prunus persica* (flowering peach and purple leaf peach); *Prunus pumila* (sand cherry); *Prunus spinosa* (black thorn and sloe); *Prunus serrulata* (Japanese flowering cherry and Kwanzan cherry); *Prunus tomentosa* (Nanking cherry and Hansen's bush cherry); and *Prunus triloba* (flowering plum).

(3) For the purposes of this Part, the following varieties of the *Prunus* species are not regulated articles: *Prunus avium*; *Prunus cerasus*; *Prunus Effuse*; *Prunus*

laurocerasus; *Prunus mahaleb*; *Prunus padus*; *Prunus sargentii*; *Prunus serotina*; *Prunus serrula*; *Prunus subhirtella*; *Prunus yedoensis*; and *Prunus virginiana*.

(4) For the purposes of this Part, seeds and fruit that is free of leaves of all varieties of the *Prunus* species are not regulated articles.

(o) *State* means the State of New York.

Section 140.2 Quarantined area

(a) That area of Niagara County which is bordered on the north by Lake Ontario and bordered on the east by Hartland Road, which extends south to its intersection with Ditch Road; extends west on Ditch Road to its intersection with Hosmer Road; extends south on Hosmer Road to its intersection with Route 104 (Ridge Road); extends east on Route 104 (Ridge Road) to its intersection with Orangeport Road; and extends south on Orangeport Road to its intersection with Slayton-Settlement Road; extends west on Slayton-Settlement Road to its intersection with Route 78 (Lockport-Olcott Road); extends south on Route 78 (Lockport-Olcott Road) to its intersection with Stone Road; extends northwest on Stone Road to its intersection with Sunset Drive; extends south on Sunset Drive to its intersection with Shunpike Road; extends west on Shunpike to its intersection with Route 93 (Townline Road); extends south on Route 93 (Townline Road) to its intersection with Route 270 (Campbell Boulevard); extends south on Route 270 (Campbell Boulevard) to its intersection with Beach Ridge Road; extends southwest on Beach Ridge Road to its intersection with Townline Road; extends south on Townline Road to its intersection with the Tonawanda Creek; following the Tonawanda Creek west to its entry into the Niagara River; following the Niagara River north to its entry into Lake Ontario.

(b) That area of Orleans County which is bordered on the north by Lake Ontario and bordered on the west by County Line Road; extends south on County Line Road to its intersection with Johnson Road; extends east on Johnson Road to its intersection with Salt Works Road; extends south on Salt Works Road to its intersection with the Orleans/Genesee County border; extends east along the Orleans/ Genesee County border to its intersection with Route 98 (Quaker Hill Road); extends north on Route 98 (Quaker Hill Road) to its intersection with East Barre Road; extends east on East Barre Road to its intersection with Culver Road; extends north on Culver Road to its intersection with East Lee Road; extends east on East Lee Road to its intersection with Rich's Corners Road; extends north on Rich's Corners Road to its intersection with Route 31 (Telegraph Road) and Keitel Road; extends north on Keitel Road to its intersection with Zig Zag Road; extends north on Zig Zag Road to its intersection with Lattin Road; extends north on Lattin Road to its intersection with Route 104 (Ridge Road West); extends west on Route 104 (Ridge Road West) to its intersection with Sawyer Road; extends north on Sawyer Road to its intersection with Roosevelt Highway; extends west on Roosevelt Highway to its intersection with Oak Orchard Road; extends north on Oak Orchard Road to its intersection with Point Breeze Road; extends north on Point Breeze Road to its intersection with Lake Ontario.

Section 140.3 Regulated area

The following areas within the quarantined area are regulated areas:

(a) That area bordered on the east by Porter Center Road; bordered on the south by Balmer Road which terminates on Creek Road; bordered on the west by Creek Road, Blairville Road and the Robert Moses Parkway; and bordered on the north by Lake Ontario in the Town of Porter in the County of Niagara, State of New York.

(b) That area bordered on the north by Lake Ontario; bordered on the west by Maple Road; extends south on Maple Road to its intersection with Wilson-Burt Road; extends east on Wilson-Burt Road to its intersection with Beebe Road; extends south on Beebe Road to its intersection with Ide Road; extends east on Ide Road to its intersection with Route 78 (Lockport-Olcott Road); extends north on Route 78 (Lockport-Olcott Road) to its intersection with Lake Ontario, in the Towns of Burt, Newfane, and Wilson in the County of Niagara, State of New York.

(c) That area bordered on the east by Porter Center Road starting at its intersection with Route 104 (Ridge Road) and extending north-northeast on Porter Center Road to its intersection with Langdon Road; extends east on Langdon Road to its intersection with Dickersonville Road; extends north on Dickersonville Road to its intersection with Schoolhouse Road; extends east on Schoolhouse Road to its intersection with Ransomville Road; extends south on Ransomville Road to its intersection with Route 104 (Ridge Road); extends east on Route 104 (Ridge Road) to its intersection with Simmons Road; extends south on Simmons Road to its intersection with Albright Road; extends east on Albright Road to its intersection with Townline Road; extends south on Townline Road to its intersection with Lower Mountain Road; extends west on Lower Mountain Road to its intersection with Meyers Hill Road; extends south on Meyers Hill Road to its intersection with Upper Mountain Road; extends west on Upper Mountain Road to its intersection with Indian Hill Road; extends northeast on Indian Hill Road to its intersection with Route 104 (Ridge Road); extends east on Route 104 (Ridge Road) to its intersection with Porter Center Road, in the Town of Lewiston, in the County of Niagara, State of New York.

(d) That area bordered on the south by the Erie Canal at its intersection with Culvert Road extending north on Culvert Road to its intersection with Route 104 (Ridge Road); extends east on Route 104 (Ridge Road) to its intersection with Kenyonville Road; extends south on Kenyonville Road to its intersection with Eagle Harbor-Knowlesville Road; extends east on Eagle Harbor-Knowlesville Road to its intersection with the Erie Canal; following west along the Erie Canal to its intersection with Culvert Road, in the Town of Ridgeway, in the County of Orleans, State of New York.

Section 140.4 Nursery stock regulated area

The nursery stock regulated area shall consist of the quarantined area set forth in section 140.2 of this Part, exclusive of the regulated areas set forth in section 140.3 of this Part.

Section 140.5 Conditions governing the propagation of regulated articles.

Regulated articles originating from or growing within the regulated area or the nursery stock regulated area shall not be used as a source of propagated material (either root stock, scion or seed).

Section 140.6 Conditions governing the intrastate movement of regulated articles.

(a) Prohibited movement.

- (1) The movement of any regulated article within the regulated area is prohibited.**
- (2) The intrastate movement of any regulated article from the regulated area to any point outside the regulated area is prohibited, except pursuant to a limited permit, authorizing such movement.**
- (3) The intrastate movement of any regulated article from any point outside the regulated area to the regulated area is prohibited, except pursuant to a limited permit, authorizing such movement.**
- (4) The intrastate movement of any article infected with or suspected of having been exposed to the plum pox virus is prohibited, except as provided in Section 140.12 of this Part.**
- (5) The handling of regulated articles by nursery dealers or nursery growers within the nursery stock regulated area is prohibited, except pursuant to a compliance agreement.**
- (6) The digging or moving of regulated articles by nursery dealers and nursery growers within the nursery stock regulated area is prohibited.**
- (7) The planting and over-wintering of regulated articles by nursery dealers and nursery growers within the nursery stock regulated area is prohibited.**

(b) Regulated movement.

Regulated articles may be moved through the regulated area if the regulated articles originated outside the regulated area and:

- (1) the point of origin of the regulated articles is on the waybill or bill of lading;**
- and**
- (2) a certificate accompanies the regulated articles; and**
 - (3) the vehicle moving the regulated articles does not stop within the regulated area except for refueling; and**
 - (4) the vehicle moving the regulated articles during the period April 1 through November 30 is either an enclosed vehicle or a vehicle completely covered by canvas, plastic or closely woven cloth to prevent access by aphids or other vectors of plum pox virus.**

Section 140.7 Records

Nursery dealers and nursery growers handling regulated articles within the nursery stock regulated area shall compile, maintain and make available for inspection, for a period of two years, records of inventory and sales of regulated articles on a form or forms prescribed by the Commissioner.

Section 140.8 Conditions governing the issuance of certificates and permits.

(a) Certificates may be issued for the intrastate movement of regulated articles under one or more of the following conditions:

- (1) when they have been tested and found apparently free from infection; or
- (2) when they have been grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, no infection would be transmitted thereby, provided, that subsequent to certification, the regulated articles will be loaded, handled, and shipped under such protection and safeguards against reinfection as are required by the inspector.

(b) Limited permits may be issued for the movement of noncertified regulated articles to specified destinations for specified processing, handling, or utilization. Persons shipping, transporting, or receiving such articles may be required to enter into compliance agreements to maintain such sanitation safeguards against the establishment and spread of infection and to comply with such conditions as to the maintenance of identity, handling, processing, or subsequent movement of regulated products and the cleaning of cars, trucks and other vehicles used in the transportation of such articles, as may be required by the inspector. Failure to comply with conditions of the agreement will result in cancellation of a limited permit.

(c) Certificates or limited permits issued under these regulations may be withdrawn or canceled by the Commissioner and further certification refused whenever in his or her judgment the further use of such certificates or limited permits may result in the spread of the plum pox virus.

Section 140.9 Inspection and disposition of shipments.

Any car or other conveyance, any package or other container, and any article or thing to be moved, which is moving, or which has been moved intrastate from the regulated area, which contains, or which the inspector has probable cause to believe may contain, regulated articles or other articles infected with the plum pox virus, may be examined by an inspector at any time or place. When regulated articles are found to be moving or to have been moved intrastate in violation of these regulations, the inspector may take such action as he or she deems necessary to eliminate the danger of the spread of the plum pox virus. If found to be infected, such articles or regulated articles shall be freed of infection without cost to the State except that for inspection and supervision.

Section 140.10 Assembly of regulated articles for inspection.

(a) Persons intending to move intrastate any of the articles covered by these regulations shall make application for certification as far in advance as possible, and will be required to prepare and assemble articles at such points and in such manner as the inspector shall designate, so that thorough inspection may be made or approved treatments verified. Articles to be inspected as a basis for certification must be free from matter which makes inspection impracticable.

(b) The New York State Department of Agriculture and Markets or the United States Department of Agriculture Animal and Plant Health Inspection Service (USDA APHIS) shall not be responsible for any cost incident to inspection, treatment, or certification other than the services of the inspector.

Section 140.11 Marking requirements.

Every container of regulated articles intended for intrastate movement shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a valid certificate or limited permit, issued in compliance with these regulations: provided, that:

(a) for lot freight shipments, other than by road vehicle, one certificate may be attached to one of the containers and another to the waybill; and for car lot freight or express shipment, either in containers or in bulk, a certificate need be attached to the waybill only and a placard to the outside of the car, showing the number of the certificate accompanying the waybill; and

(b) for movement by road vehicle, the certificate shall accompany the vehicle and be surrendered to consignee upon delivery of shipment.

Section 140.12 Shipments for experimental and scientific purposes.

Regulated articles may be moved intrastate for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the New York State Department of Agriculture and Markets. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag issued by the New York State Department of Agriculture and Markets showing compliance with such conditions.

**State of New York
Department of Agriculture and Markets
Division of Plant Industry
10B Airline Drive
Albany, New York 12235
518-457-2087**

COMPLIANCE AGREEMENT

<p>1. Name and mailing address of establishment</p> <p style="text-align: center; color: red;">REGISTERED NURSERY GROWERS & DEALERS & DEALERS</p>	<p>2. Location</p> <p style="text-align: center; color: red;">INSIDE THE NURSERY STOCK REGULATED AREA</p>
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3. Regulated articles handled:
All Plum Pox Virus susceptible species of Prunus (see attached list)

4. Applicable state quarantine(s) or regulation(s):
Agriculture and Markets Law, Article 14, Part 140 Control of the Plum Pox Virus (Potyvirus Dideron Strain)

5. I/We agree to: handle, process and/or move regulated articles in accordance with the provisions of the quarantine(s) or regulation(s); use all permits and certificates in accordance with the instructions; maintain and offer for inspection such records as may be required; carry out all additional conditions, treatments, precautions and sanitary measures which may be required by the inspector with the following stipulations: (Attachments? **YES**)
- A. No new in-ground plantings of PPV susceptible Prunus species. (regulated articles) **(SEE ATTACHED LIST)**
 - B. No digging of regulated articles for handling, sale or resale.
 - C. No propagation of regulated articles.
 - D. All in-ground Prunus susceptible species are to be destroyed by a manner prescribed by the Inspector.
 - E. No movement of regulated articles from the nursery stock regulated area into the regulated areas is permitted. **(SEE ATTACHED MAP)**
 - F. Regulated articles may be brought into the nursery regulated area for resale (bare-root or container material only) by registered nursery growers or dealers under approved and valid compliance agreements for seasonal sales. All regulated articles remaining on October 1 each year are to be destroyed in a manner prescribed by the Inspector. An inventory of incoming regulated Prunus (containerized/bare root) with origin will be maintained to compare with sales records.
 - G. Records of all sales of regulated articles will be compiled, maintained, and made available for inspection for a period of two years on a form or forms prescribed by the Commissioner. This information will be available for inspection upon request of the NYSDAM.
 - H. This agreement must be renewed annually.

Signature	Title	Date Signed
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The affixing of the signatures below will validate this agreement which shall remain in effect until canceled, or revoked for noncompliance. This agreement may be revised with the consent of both parties.

Inspector (Name and Title) Horticultural Inspector 1	Inspector Address
Inspector Signature	
Supervisor (Name and Title) Raymond E. Jablonski, Horticultural Inspector 2	Agreement Number
Supervisor Signature	Date of Agreement

