

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 28 PECAN WEEVIL EXTERIOR QUARANTINE

21.17.28.1 ISSUING AGENCY: New Mexico State University, New Mexico department of agriculture, MSC 3189, Box 30005, Las Cruces New Mexico 88003-8005, Telephone No. (575) 646-3007.
[21.17.28.1 NMAC – Rp, 21.17.28.1 NMAC; Rp, 11/08/2022]

21.17.28.2 SCOPE: Part 28 shall apply to all persons transporting regulated articles into or through New Mexico.
[21.17.28.2 NMAC – Rp, 21.17.28.2 NMAC; Rp, 11/08/2022]

21.17.28.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9, NMSA 1978 Compilation.
[21.17.28.3 NMAC – Rp, 21.17.28.3 NMAC; Rp, 11/08/2022]

21.17.28.4 DURATION: Permanent.
[21.17.28.4 NMAC – Rp, 21.17.28.4 NMAC; Rp, 11/08/2022]

21.17.28.5 EFFECTIVE DATE: November 8, 2022, unless a later date is cited at the end of a section.
[21.17.28.5 NMAC – Rp, 21.17.28.5 NMAC; Rp, 11/08/2022]

21.17.28.6 OBJECTIVE: The objective of Part 28 of Chapter 17 is to establish an exterior quarantine in order to prevent the introduction of the pecan weevil into New Mexico.
[21.17.28.6 NMAC – Rp, 21.17.28.6 NMAC; Rp, 11/08/2022]

21.17.28.7 DEFINITIONS:

A. “Board” means the regents of New Mexico state university or any individual whom authority to act in their stead has been or hereafter may be delegated.

B. “Certificate of origin” means a document issued by the department of agriculture of the state of origin that certifies that exported commodities contained in a shipment are wholly obtained, produced, manufactured or processed in a particular state and county. Certificate shall include name and address of grower and consignee, regulated article and amount, date of shipment and lot number. Lot number must also be placed on each shipping container or bag to correspond with lot numbers on the certificate of origin.

C. “Compliance agreement” means a document issued or authorized by the department that outlines/identifies specific requirements related to the transportation, treatment, handling or processes related to regulated articles.

D. “Department” means the New Mexico department of agriculture and authorized staff.

E. “Director” means director secretary of New Mexico department of agriculture.

F. “Infested” means reasonable expectation that regulated articles may harbor pecan weevil.

G. “Non-compliant” means regulated articles transported into New Mexico that are in violation of the requirements set forth in 21.17.28 NMAC.

H. “Originating” means produced within or having spent sufficient time in a quarantine area to be believed to be at risk of being infested.

I. “Pecan weevil” means any live developmental stage or synonym of *curculio caryae* (horn) including adult, pupae, larvae, or egg.

J. “Phytosanitary certificate” means a document issued or authorized by a state department of agriculture with specific declarations to include contact information for pecan owner, shipment amount, treatment method, treatment dates, destination contact information, and other information deemed relevant by the department. Includes equivalent documents issued by a state department of agriculture and addresses completion of treatment requirements.

K. “Regulated article” means pecan weevil, plant tissue, equipment, trailers, or any other item capable of or having a reasonable expectation of harboring pecan weevil. Including all varieties of pecan and hickory in-shell nuts; sacks used in harvesting, storage, transporting or storing of in-shell pecans or hickory nuts; harvesting equipment; live trees or parts thereof with soil attached; hulls, husks, and fragments of hull.

[21.17.28.7 NMAC – N, 11/08/2022]

21.17.28.8 QUARANTINE AREAS: The following are quarantined areas: All states and districts of the United States except Arizona, California, and El Paso, Hudspeth, Culberson, Jeff Davis and Presidio counties in Texas. The director may make changes to the quarantine status of a state or areas within states by issuing an emergency quarantine, amendment of this rule, or the promulgation of a new quarantine rule.

[21.17.28.8 NMAC – Rp, 21.17.28.8 NMAC; Rp, 11/08/2022]

21.17.28.9 RESTRICTION ON REGULATED ARTICLES: In order to prevent the introduction of the pecan weevil into New Mexico, the board hereby orders and declares the regulated articles herein defined shall not be allowed to move to or through New Mexico from quarantine areas, except under restrictions herein described.

A. Transportation of in-shell nuts of all pecan and hickory varieties, hulls, husks, shell fragments, containers associated with the harvesting, transportation, or storage of in-shell pecans or hickory nuts originating from a quarantine area to or through New Mexico shall be allowed as follows:

(1) Accompanied by a phytosanitary certificate for each shipment of regulated articles. Acceptable treatments are prescribed under Subsections A through C of 21.17.28.11 NMAC.

(2) Accompanied by a valid compliance agreement issued by the director, regulated articles may be transported directly to a facility approved by the director that is capable of providing the treatment(s) as defined under Subsections A through C of 21.17.28.11 NMAC.

B. Transportation of regulated articles not identified in Subsection A of 21.17.28.9 NMAC including equipment and supplies, originating in quarantine areas, to or through non-quarantine areas in New Mexico will be allowed following inspection and issuance of a phytosanitary certificate that identifies regulated articles as not being infested.

C. Regulated articles from Arizona, California, and El Paso, Hudspeth, Culberson, Jeff Davis and Presidio counties in Texas will be admitted into the state of New Mexico if accompanied by a certificate of origin.

[21.17.28.9 NMAC – Rp, 21.17.28.9 NMAC; Rp, 11/08/2022]

21.17.28.10 DISPOSITION OF VIOLATIONS: Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All transportation or disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the department for all costs, including attorney's fees and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.

[21.17.28.10 NMAC – Rp, 21.17.28.10 NMAC; Rp, 11/08/2022]

21.17.28.11 TREATMENT OF REGULATED ARTICLES: Articles specified in Subsection A of 21.17.28.9 shall be treated using one of the following methods:

A. Storage in an approved cold storage chamber at or below zero degrees fahrenheit for a period of seven consecutive days (168 hours) after the entire lot reaches zero degrees fahrenheit as determined by facility standard operating procedures approved by the department; or

B. Storage in an approved cold storage chamber at 12.2 degrees fahrenheit for a period of 14 consecutive days (336 hours) after the entire lot reaches 12.2 degrees fahrenheit as determined by facility standard operating procedures approved by the department; or

C. Immersion in at least 140 degree fahrenheit water for a period of at least five minutes; or

D. Other treatment methods may be approved under a compliance agreement issued by the director prior to shipment into the state.

[21.17.28.11 NMAC – Rp, 21.17.28.11 NMAC; Rp, 11/08/2022]

21.17.28.12 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC.

[21.17.28.12 NMAC – N, 11/08/2022]

21.17.28.13 LIABILITY DISCLAIMER: The board and the department disclaims liability for any costs incident to inspection, expulsion or disposition of non-compliant regulated articles, or compliance with the provisions of this rule.

[21.17.28.13 NMAC – Rp, 21.17.28.12 NMAC; Rp, 11/08/2022]

21.17.28.14 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.

[21.17.28.14 NMAC – N, 11/08/2022]

HISTORY OF 21.17.28 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 69-6, Exterior Quarantine No. 3, Pecan Weevil and Pecan Nut Casebearer, filed 10/3/1969.

NMDA Rule 69-6 Amendment No. 1, Exterior Quarantine No. 3, Amended, Pecan Nut Casebearer, filed 11/20/1972.

NMDA Rule 72-6, Exterior Quarantine No. 4, Pecan Weevil, Hickory Shuckworm, Black Walnut Curculio, and Butternut Curculio, filed 11/20/1972.

NMDA Rule 72-8, Exterior Quarantine No. 4, Pecan Weevil, Hickory Shuckworm, Black Walnut Curculio, and Butternut Curculio, filed 11/29/1972.

NMDA Rule 74-6, Regulatory Order No. 1, Pecan Weevil, filed 9/18/1974.

NMDA Rule 74-7, Exterior Quarantine, Regulatory Order No. 2, Weevil-Curculio, filed 9/18/1974.

NMDA Rule 74-7, Amendment No. 1, Regulatory Order No. 2, Pecan Weevil, Hickory Shuckworm, Black Walnut Curculio, and Butternut Curculio, filed 2/28/1983.

NMDA Rule 83-3, Pecan Weevil and Hickory Shuckworm Quarantine, filed 4/7/1983.

NMDA Rule 88-15, Pecan Weevil and Hickory Shuckworm Quarantine, filed 12/22/1988.

NMDA Rule 90-2, Emergency Pecan Weevil and Hickory Shuckworm Quarantine, filed 3/14/1990.

NMDA Rule 90-4, Emergency Pecan Weevil Exterior Quarantine, filed 10/24/1990.

NMDA Rule 90-7, Pecan Weevil Exterior Quarantine, filed 12/19/1990.

History of Repealed Material:

21.17.28 NMAC - PECAN WEEVIL EXTERIOR QUARANTINE, filed 7/1/1997, renumbered and amended 5/29/2009 was repealed and replaced by 21.17.28 NMAC - PECAN WEEVIL EXTERIOR QUARANTINE, effective 11/08/2022.