

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 27 JAPANESE BEETLE EXTERIOR QUARANTINE

21.17.27.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture,
[21.17.27.1 NMAC - N, 06/30/11]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.27.2 SCOPE: Part 27 shall apply to all persons transporting regulated articles into and through New Mexico.
[21.17.27.2 NMAC - N, 06/30/11]

21.17.27.3 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 compilations.
[21.17.27.3 NMAC - N, 06/30/11]

21.17.27.4 DURATION: Permanent.
[21.17.27.4 NMAC - N, 06/30/11]

21.17.27.5 EFFECTIVE DATE: June 30, 2011, unless a later date is cited at the end of a section.
[21.17.27.5 NMAC - N, 06/30/11]

21.17.27.6 OBJECTIVE: The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico.
[21.17.27.6 NMAC - N, 06/30/11]

21.17.27.7 DEFINITIONS:

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

B. “Free of soil” individual soil “clump(s)” less than ½ inch in diameter.

C. “Department” means the New Mexico department of agriculture.

D. “Certificate” an authenticated document issued by the department of agriculture affirming compliance with quarantine restrictions affecting movements of regulated articles, indicating articles are believed to be free of the live quarantine pest.

E. “Infestation” means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.

F. “Director” means the director of New Mexico department of agriculture.

[21.17.27.7 NMAC - N, 06/30/11]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

A. Pest: Japanese beetle, *Popillia japonica*.

B. Areas under quarantine: States of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

C. Any areas not listed in Subsection B of 21.17.27.8 NMAC where Japanese beetle has been found or areas where Japanese beetle is believed to occur shall be included as an area under quarantine.

D. Regulated articles:

(1) Japanese beetle in any living state of development.

(2) Grass and grass sod, regardless of container size.

(3) Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal surface area equal to or greater than 113 square inches (i.e. 12 inch diameter pot) or shipped as “ball and burlap” with rootballs equal to or greater than 12 inches in diameter; houseplants grown in the home and not for sale are exempt.

(4) Bulbs, corms, tubers, and rhizomes, unless free of soil.

(5) Any other product, articles, or means of conveyance of any character whatsoever, not covered by this subsection, are regulated articles when it is determined by the department that they present a risk of spreading Japanese beetle and the person in possession thereof has been so notified.
[21.17.27.8 NMAC - N, 06/30/11]

21.17.27.9 RESTRICTIONS:

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine unless they have the required certificate. A phytosanitary certificate or compliance agreement issued by an authorized state agricultural official of the origin state must accompany regulated articles moved from the quarantined area into New Mexico. Compliance agreements must be preapproved by the New Mexico state plant regulatory official prior to shipment. The certificate must state that the regulated article is certified free of Japanese beetle based on one of the following options.

(1) Regulated article originated in certified Japanese beetle-free premises in a quarantined area and has not been exposed to an infestation while within the quarantined area. Premises approved by the state plant regulatory official include Japanese beetle-free greenhouse or screenhouse that has been inspected annually and approved by an authorized state agricultural official of the origin state as being Japanese beetle free in accordance to criteria specified in the *U.S. Japanese beetle harmonization plan*, Appendix 1, "Production in an approved Japanese-free greenhouse/screenhouse." The following additional declaration shall appear on the state phytosanitary certificate, "The rooted plants (or crowns) were produced in an approved Japanese beetle-free greenhouse or screenhouse."

(2) Regulated article production cycle completed and shipped during an adult Japanese beetle-free period. The adult Japanese beetle-free period will be based on recent trapping information conducted by an authorized state agricultural official of the origin state for that location. Only plants grown in sterilized and soilless medium will be considered for entry into New Mexico under this certification. The following additional declaration shall appear on the state phytosanitary certificate, "The plants were produced and shipped outside the adult Japanese beetle flight period."

(3) Regulated article treated to destroy Japanese beetle infestations in accordance with the *U.S. Japanese beetle harmonization plan*, Appendix 1, "*application of approved regulatory treatment*." The following additional declaration shall appear on the state phytosanitary certificate, "The rooted plants were treated to control *Popillia japonica*, in accordance to the criteria for shipment to Category 1 states as provided in the *U.S. domestic Japanese beetle harmonization plan*, or treated using a method approved by the New Mexico state plant regulatory official."

(4) Regulated article subject to *origin detection survey*. Regulated articles originating from specific counties not infested with Japanese beetle and within infested states may be accepted if the county of origin is shown not to be infested with Japanese beetle based on current and historic adult surveys. An authorized state agricultural official of the origin state must reapply annually in writing to the New Mexico state plant regulatory official for inclusion of counties under this option. Decision by the department to approve shipment of regulated articles under this option will be based on the results from adult surveys conducted by the department of agriculture of the originating state. Surveys to detect Japanese beetle adults shall be conducted at each growing location and throughout the county. The following additional declaration shall appear on the state phytosanitary certificate, "The plants were produced and shipped from an area not found to be infested with Japanese beetle in accordance with the New Mexico's Japanese Beetle Exterior Quarantine." Requests for approval of regulated articles under this option shall include:

- (a) name of the county and nurseries requesting approval;
- (b) survey information and results that include trap locations for nursery and county of origin (i.e. maps, GPS coordinates), dates of deployment and trap maintenance, survey methodology, and results;
- (c) historic information regarding Japanese beetle surveys and related information relevant to determining the status of Japanese beetle infestation levels at the nursery and county levels; and
- (d) number of miles from each nursery to nearest Japanese beetle positive trap catch or known population which would include relevant counties in adjacent states.

(5) Other treatments or methods of mitigation not described therein may be submitted in writing by an authorized state agricultural official of the origin state to the department for review prior to shipment into New Mexico.

B. State phytosanitary certificates and compliance agreements shall be securely attached to the outside of the container in which the articles are moved, except where the certificate is attached to the shipping document and the regulated articles are adequately described on the shipping document or on the certificate.

C. The director may make exceptions, modifications, or additions to restrictions as needed or at the request of individual departments of agriculture for the purpose of addressing specific issues.
[21.17.27.9 NMAC - N, 06/30/11]

21.17.27.10 EXCEPTIONS: None.
[21.17.27.10 NMAC - N, 06/30/11]

21.17.27.11 DISPOSITION OF VIOLATIONS: Failure to comply with the requirements as stated above shall be a violation of this rule and subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. The board is granted the authority to direct the disposal, removal, or other means necessary to mitigate the threat of noncompliant regulated articles.
[21.17.27.11 NMAC - N, 06/30/11]

21.17.27.12 LIABILITY DISCLAIMER: The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.
[21.17.27.12 NMAC - N, 06/30/11]

HISTORY OF 21.17.27 NMAC: [RESERVED]