

**TITLE 21      AGRICULTURE AND RANCHING**  
**CHAPTER 17   PEST, DISEASE, AND WEED CONTROL**  
**PART 42       COTTON BOLL WEEVIL QUARANTINE**

**21.17.42.1      ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture.  
[21.17.42.1 NMAC - N, 3/1/2004]

**21.17.42.2      SCOPE:** This rule establishes the restrictions to all persons transporting regulated articles into, through, or intrastate from quarantined areas of New Mexico and interstate into New Mexico from quarantined areas.  
[21.17.42.2 NMAC - N, 3/1/2004]

**21.17.42.3      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.  
[21.17.42.3 NMAC - N, 3/1/2004]

**21.17.42.4      DURATION:** Permanent.  
[21.17.42.4 NMAC - N, 3/1/2004]

**21.17.42.5      EFFECTIVE DATE:** March 1, 2004, unless a later date is cited in the history note at the end of a section.  
[21.17.42.5 NMAC - N, 3/1/2004]

**21.17.42.6      OBJECTIVE:** The objective of Part 42 of Chapter 17 is to establish a permanent cotton boll weevil quarantine to protect those cotton producing areas of New Mexico that have achieved eradication of the cotton boll weevil.  
[21.17.42.6 NMAC - N, 3/1/2004]

**21.17.42.7      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.      “Certificate”** is a document issued or authorized by the board indicating that a regulated article is not contaminated with a pest, a phytosanitary certificate issued by an authorized representative of the department allowing the movement of plants or plant products, or a document issued by an authorized representative of the department allowing the movement of equipment or vehicles.

**C.      “Compliance agreement”** is a written agreement between the department and any person engaged in growing, distributing, handling, or moving regulated articles where the latter agrees to comply with conditions specified in the agreement to prevent the dissemination of the cotton boll weevil.

**D.      “Control district”** is a cotton boll weevil control district - any area duly established under the Cotton Boll Weevil Control Act wherein a program to suppress or eradicate the cotton boll weevil is administered.

**E.      “Cotton”** means all parts of cotton and wild cotton plants of the genera *Gossypium* and *Thurberia* grown for commercial or non-commercial use.

**F.      “Cotton lint”** means all forms of raw ginned cotton except linters and gin waste.

**G.      “Cotton products”** means seed cotton, cotton lint, linters, oil mill waste, gin waste, gin trash, cotton seed, cottonseed hulls and all other forms of unmanufactured cotton fiber.

**H.      “Cotton seed”** means the seed of the cotton plant, separated from lint.

**I.      “Department”** means the New Mexico department of agriculture.

**J.      “Director”** is the director of the New Mexico department of agriculture.

**K.      “Eradicated area”** is an area apparently free of cotton boll weevil for which scientific documentation acceptable to the department has been provided that indicates that no cotton boll weevils were captured for a period of at least one cotton growing season by cotton boll weevil pheromone traps operated by an authorized control district, the department, an approved governmental agency, or other entity approved by the department.

**L.      “Functionally eradicated area”** is an area meeting the trapping criteria for a suppressed area with no confirmed evidence of cotton boll weevil reproduction occurring in the area and no oviposition on the squares, and in which the movement of regulated articles presents a threat to the success of the cotton boll weevil eradication

program. The cotton boll weevil population must be less than or equal to average of 0.001 cotton boll weevils per trap per week for the cotton growing season as measured by cotton boll weevil pheromone traps operated by an authorized control district, the department, an approved governmental agency, or other entity approved by the department.

**M.** “**Gin motes**” are short fragments of unmanufactured cotton fiber removed from lint cleaners after ginning cotton.

**N.** “**Gin trash**” is all material produced during the cleaning and ginning of seed cotton, bollies, or snapped cotton, includes burrs, does not include lint, linters, cotton seed, or gin waste.

**O.** “**Gin waste**” is all forms of un-manufactured waste cotton fiber, including gin motes, resulting from the ginning of seed cotton.

**P.** “**Infested**” means actually infested with a cotton boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

**Q.** “**Limited permit**” is a document issued or authorized by a federal or state regulatory official to provide for the movement of regulated articles to a restricted destination for limited handling, utilization, processing or treatment.

**R.** “**Linters**” are residual un-manufactured cotton fibers separated from cotton seed after the lint has been removed.

**S.** “**Oil mill waste**” is waste products, including linters, derived from the milling of cotton seed.

**T.** “**Restricted area**” is an area designated as suppressed, functionally eradicated, or eradicated of cotton boll weevils as those terms are defined in this section.

**U.** “**Seed cotton**” includes all forms of un-ginned cotton from which the seed has not been separated.

**V.** “**Suppressed area**” is an area in which some cotton boll weevil reproduction may be present in the area or a portion thereof, and in which the movement of regulated articles presents a threat to the success of the cotton boll weevil eradication program. The cotton boll weevil population must be less than or equal to 0.025 cotton boll weevils per trap per week for the cotton-growing season as measured by cotton boll weevil pheromone traps operated by an authorized control district, the department, an approved governmental agency, or other entity approved by the department.

**W.** “**Trap**” is a type of adult cotton boll weevil pheromone trap approved by New Mexico cotton boll weevil technical advisory committee or the department.

**X.** “**Treatment**” is the act of eliminating possible cotton boll weevil infestation(s) or contamination by cleaning or by fumigation, in instances in which normal cleaning will not eliminate the infestation or contamination.

[21.17.42.7 NMAC - N, 3/1/2004]

**21.17.42.8 PEST:** Cotton boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.

[21.17.42.8 NMAC - N, 3/1/2004]

**21.17.42.9 AREAS UNDER QUARANTINE:**

**A. New Mexico:** Those areas of New Mexico not declared suppressed, functionally eradicated, or eradicated for cotton boll weevil.

**B. All other states:** All states or any portion of such states not declared suppressed, functionally eradicated, or eradicated for cotton boll weevil by a duly authorized agency.

[21.17.42.9 NMAC - N, 3/1/2004]

**21.17.42.10 PROTECTED AREAS:**

**A. Suppressed areas:** The director may grant a request for declaration of an area as “suppressed” after a written recommendation is submitted to the department from an authorized control district or approved governmental agency, supported by scientific documentation acceptable to the department, indicating that movement of regulated articles into the area presents a threat to the success of cotton boll weevil eradication.

**B. Functionally eradicated areas:** The director may grant a request for declaration of an area as “functionally eradicated” after a written recommendation is submitted to the department from an authorized control district or approved governmental agency, supported by scientific documentation acceptable to the department, indicating that movement of regulated articles into the area presents a threat to the success of cotton boll weevil eradication.

**C. Eradicated areas:** The director may grant a request for declaration of an area as “eradicated” after a written recommendation is submitted to the department from an authorized control district or approved

governmental agency, supported by scientific documentation acceptable to the department, indicating that movement of regulated articles into the area presents a threat to the success of cotton boll weevil eradication. [21.17.42.10 NMAC - N, 3/1/2004]

**21.17.42.11 REGULATED ARTICLES:**

- A. Cotton boll weevil, in any living stage of development.
- B. Cotton and cotton products.
- C. Cotton harvesting equipment and other equipment associated with the production and transport of cotton, including, but not limited to, the following:
  - (1) Harvest equipment:
    - (a) cotton pickers;
    - (b) cotton strippers; or
    - (c) other mechanical harvesting equipment.
  - (2) Handling and transport equipment:
    - (a) module builders;
    - (b) module hauling equipment; and
    - (c) boll buggies and any other equipment or vehicles associated with cotton harvest.
  - (3) Miscellaneous associated equipment:
    - (a) trucks such as service trucks, parts trucks, harvesting equipment trucks;
    - (b) flatbed trailers, portable living quarters, fuel and all other support vehicles; and
    - (c) tractors, shredders, plows, discs, and other equipment associated with cotton production activities which have regulated articles present; and
    - (d) vehicles used to remove and/or transport cotton products.
- D. Gin equipment previously used for the ginning of cotton.
- E. All other products, articles, or means of conveyance not covered above when an inspector determines that they present a risk of a cotton boll weevil outbreak and the person in possession has been notified. [21.17.42.11 NMAC - N, 3/1/2004]

**21.17.42.12 RESTRICTIONS:**

- A. **General:** Movement of regulated articles is prohibited in the following cases:
  - (1) from or through a quarantined area to an eradicated area, a functionally eradicated area, or a suppressed area;
  - (2) from or through a suppressed area to an eradicated area or a functionally eradicated area;
  - (3) from or through a functionally eradicated area to an eradicated area; or
  - (4) when the department determines the movement may cause an increase in infestation of cotton boll weevil.
- B. **Exemptions:** The following are exempt from the requirements of Subsection A:
  - (1) cotton seed and vehicles transporting the seed;
  - (2) baled cotton, baled gin motes and linters and vehicles transporting baled cotton and baled gin motes and linter; and
  - (3) manufactured cotton products.
- C. **Exceptions:** The following are exceptions to the restrictions in Subsection A of this section:
  - (1) Cotton harvesting equipment and other equipment associated with the production and transport of cotton as well as used gin equipment, otherwise prohibited from movement by this regulation, may be moved to or through a restricted area provided the equipment is free of cotton products and cotton boll weevils in any stage of development or treated in one of the following manners:
    - (a) physical removal of hostable material including, but not limited to; removal by hand, high-pressure air cleaning; or high pressure washing; or
    - (b) fumigation of regulated articles as prescribed by the department.
  - (2) Cotton products and other regulated articles, otherwise prohibited from movement by these rules, may be transported to or through a restricted area provided that the producer, transporter, ginner, or other responsible party entered into a compliance agreement with the department and operates under its conditions.
  - (3) A USDA certificate of inspection (PPQ Form 540, used to certify equipment free of pink bollworm) showing that cotton harvesting equipment or other equipment associated with the production and transport of cotton, as well as used gin equipment, has been cleaned or fumigated is acceptable to the department as an exception to the restrictions set forth in Subsection A of this section.

[21.17.42.12 NMAC - N, 3/1/2004]

**21.17.42.13 INSPECTIONS AND CERTIFICATES:**

**A. Inspections:**

(1) Within New Mexico: An inspection for movement of regulated articles is not required, but may be obtained upon request to the department and payment of fee.

(2) Outside New Mexico from a quarantine area: An inspection certificate issued by the state of origin, a USDA certificate of inspection (PPQ Form 540) or a limited permit shall be filed with the department prior to the movement of regulated articles into the state.

**B. Certificates:** An inspection certificate may be issued certifying the movement of regulated articles in compliance with these rules, for the current growing season, if an authorized representative of the department determines:

(1) adequate measures have been taken to ensure that there will be little or no danger of increased infestation of the quarantined pest or expansion of a regulated area by such movement; or

(2) the articles have been treated to eliminate infestation of the quarantined pest, for a specific location; or

(3) such movement will not result in the spread or increased infestation of the quarantined pest. Any certificate may be withdrawn or canceled if an authorized representative of the department determines that the use of the issued certificate may result in the spread of the quarantined pest.

[21.17.42.13 NMAC - N, 3/1/2004]

**21.17.42.14 DISPOSITION OF VIOLATIONS:** Any regulated article arriving in New Mexico in violation of this rule shall be subject to immediate quarantine, and treated or otherwise disposed of as necessary to prevent spread or establishment of the pest in the state. Such treatment or disposal shall be at the expense of the owners or agents and under the direction of the New Mexico department of agriculture after proper notification to the owner or agent. 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. In addition, the department may revoke or suspend any compliance agreements or certificates issued.

[21.17.42.14 NMAC - N, 3/1/2004]

**21.17.42.15 LIABILITY DISCLAIMER:** The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

**A.** All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico or the United States department of agriculture now in effect or which may hereafter be promulgated.

**B.** Regulated articles covered by this rule may be imported by an authorized governmental or private organization under special permit from the New Mexico department of agriculture.

[21.17.42.15 NMAC - N, 3/1/2004]

**HISTORY OF 21.17.42 NMAC:** [RESERVED]