

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 35 APPLE MAGGOT INTERIOR QUARANTINE

21.17.35.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture.
[21.17.35.1 NMAC - N, 4/29/2005]

21.17.35.2 SCOPE: Part 35 of Chapter 17 applies to any person(s) displaying, donating, selling, or processing regulated articles within a quarantined area or transporting regulated articles out of a quarantined area.
[21.17.35.2 NMAC - N, 4/29/2005]

21.17.35.3 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.
[21.17.35.3 NMAC - N, 4/29/2005]

21.17.35.4 DURATION: Permanent.
[21.17.35.4 NMAC - N, 4/29/2005]

21.17.35.5 EFFECTIVE DATE: April 29, 2005, unless a later date is cited at the end of a section.
[21.17.35.5 NMAC - N, 4/29/2005]

21.17.35.6 OBJECTIVE: The objective of Part 35 of Chapter 17 is to prevent further spread of apple maggot to New Mexico counties not known to be infested.
[21.17.35.6 NMAC - N, 4/29/2005]

21.17.35.7 DEFINITIONS:

- A.** **“Apple maggot”** refers to any developmental stage or synonym of *Rhagoletis pomonella*.
- B.** **“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.
- C.** **“Certificate”** is a document issued or authorized by the department indicating a regulated article is not infested with a specific pest.
- D.** **“Department”** means the New Mexico department of agriculture.
- E.** **“Developmental stage”** includes adult, pupae, larvae, or egg.
- F.** **“External inspection”** means the visual inspection of the exterior of regulated fruit.
- G.** **“Infested”** means reasonable expectation that regulated articles may harbor any developmental stage of apple maggot. All regulated articles originating within a quarantined area will be considered infested, unless accompanied by a certificate.
- H.** **“Interior inspection”** means the visual inspection of the interior of regulated fruit.
- I.** **“Lot(s)”** means a defined quantity or population of regulated fruit with a common identity; i.e., box, shipment, or orchard.
- J.** **“Orchard(s)”** means area in which regulated fruit is grown, irrespective of the number of trees.
- K.** **“Regulated article”** means any developmental stage of apple maggot, plant tissue, or material capable of or having a reasonable expectation of harboring any developmental stage of apple maggot.
- L.** **“Regulated fruit”** means fruit capable of harboring any live developmental stage of apple maggot.
- M.** **“Retail”** means sales or donations of regulated fruit primarily sold or donated to individual consumers.
- N.** **“Signs”** means visual indicators found on the surface of regulated fruit that indicates the possible presence of apple maggot infestations. Examples include, but are not limited to, fruit discoloration, necrosis, soft areas, longitudinal discolorations, or a bumpy appearance or feel.
- O.** **“Wholesale”** means sales or donations of regulated fruit sold or donated primarily to retailers.
- P.** **“Units”** means the smallest quantity offered at the retail level; i.e., pint, quart, or apple.

[21.17.35.7 NMAC - N, 4/29/2005]

21.17.35.8 APPLE MAGGOT INTERIOR QUARANTINE: Apple maggot is not known to be a widespread pest of apples and other fruit in New Mexico. In order to prevent the further spread of apple maggot in

New Mexico, the department hereby orders and declares that regulated fruit shall not be displayed or sold within the quarantined areas or allowed to be transported out of the quarantined area, except under restrictions herein described.

[21.17.35.8 NMAC - N, 4/29/2005]

21.17.35.9 QUARANTINED AREAS: Quarantined areas are defined areas of the state in which the department has determined to contain established populations of apple maggot. Los Alamos, Rio Arriba, and Santa Fe counties are designated as quarantined areas.

[21.17.35.9 NMAC - N, 4/29/2005]

21.17.35.10 REGULATED ARTICLES: Any live developmental stage of apple maggot. Plant tissue originating or repackaged within the quarantined areas and capable of harboring any live developmental stage of apple maggot. All material originating within the quarantined areas with a reasonable expectation of harboring any live developmental stage of apple maggot. Examples of regulated articles include, but are not limited to, boxes, soil, and the fruit of apple, crab apple, cherry, pear, and plum trees.

[21.17.35.10 NMAC - N, 4/29/2005]

21.17.35.11 RESTRICTIONS: A certificate must accompany all regulated fruit displayed or sold within the quarantined area or to be transported out of the quarantined area. Following inspection, a certificate may be issued either directly by the department or under a compliance agreement for regulated fruit that complies with one or more of the following appropriate certification restrictions.

A. Regulated fruit sold at the retail level or donated to individuals or organizations: Following inspection, regulated fruit that complies with 1, 2, or 3 of this subsection will be considered apple maggot free and entitled to a certificate.

(1) All individual regulated fruit was determined to be free of external signs that may be indicative of apple maggot infestation. Based on internal inspections, no apple maggots were detected in 0.5 percent (i.e., 1 out of 200 apples or units) of regulated fruit.

(2) All regulated fruit was subjected to treatment as detailed in subsection "certification by treatment."

(3) All regulated fruit originated from orchards certified to be free of apple maggot as detailed in subsection "certification of orchards."

B. Regulated fruit sold at the wholesale level: Following inspection, specific lots of regulated fruit that comply with 1, 2, or 3 of this subsection will be considered apple maggot free and entitled to a certificate.

(1) Based on external inspections of a representative sample, no regulated fruit exhibited signs indicative of apple maggot infestation. A sample size will be based on one apple per box. Based on internal inspections, no apple maggots were detected in a representative sample consisting of 0.2 percent of the total regulated fruit. A minimum of five apples per lot will be inspected internally for apple maggot.

(2) All regulated fruit was subjected to treatment as detailed in subsection "certification by treatment."

(3) All regulated fruit originated from orchards certified to be free of apple maggot as detailed in subsection "certification of orchards."

C. Repackaged fruit not originating within a quarantined area: Persons processing or repackaging regulated fruit not originating within quarantined areas must maintain documentation addressing the origin of those articles. Documentation must contain the name, address, and telephone number of the person who sold the regulated fruit and the location of the growing area.

D. Certification by treatment: Regulated fruit intended for donation or retail or wholesale sales will be issued a certificate by the department following completion of one of two officially supervised cold storage treatments.

(1) Regulated fruit will be subjected to a minimum of 90 days in cold storage. The temperature of regulated fruit will be maintained at forty (40) degrees fahrenheit or less.

(2) Regulated fruit will be subjected to a minimum of 40 days in cold storage. Temperature of regulated fruit will be maintained at thirty-two (32) degrees fahrenheit or less.

E. Certification of orchards: Regulated fruit intended for donation or retail or wholesale sales originating from an orchard certified to be free of apple maggot will be issued a certificate by the department following compliance with a department accepted control program.

[21.17.35.11 NMAC - N, 4/29/2005]

21.17.35.12 EXEMPTIONS:

A. Regulated fruit processed (juice, sauce, jam, etc.) within the quarantined areas in a manner that will destroy apple maggot.

B. The director of the department may authorize additional specific exemptions.

[21.17.35.12 NMAC - N, 4/29/2005]

21.17.35.13 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. Regulated articles found to be infested and/or in violation of this quarantine shall be destroyed at the owner's expense in a manner prescribed by the department or subjected to an approved cold treatment at the owner's expense.

[21.17.35.13 NMAC - N, 4/29/2005]

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

[21.17.35.14 NMAC - N, 4/29/2005]

HISTORY OF 21.17.35 NMAC:

Pre-NMAC History: [RESERVED]

History of Repealed Material:

21.17.34 NMAC, Apple Maggot Emergency Interior Quarantine, filed 9/24/04 - Expired December 23, 2004.