

(c) The Department shall report to APHIS any change in the number of plants at a postentry quarantine site from the number indicated in the notice of shipment.

(d) The Department shall report to APHIS any noncompliance with the terms of the postentry quarantine agreement and the postentry quarantine permit.

2:20-7.5 Right to enter premises for inspection; sanctions for interference or obstruction

(a) Persons entering into a postentry quarantine agreement shall be deemed to have acknowledged and consented to the Department's authority, without prior notice, to enter private property containing a site for the purpose of inspecting plants subject to a postentry quarantine permit for evidence of exotic pests, in accordance with 7 C.F.R. § 319.37-7, as amended and supplemented, incorporated herein by reference, and N.J.S.A. 4:7-13 and 35.

(b) Persons interfering with or obstructing the Department or an inspector in the conduct of postentry quarantine inspection and monitoring services shall be subject to the sanctions provided at 7 C.F.R. § 319.37-7, as amended and supplemented, incorporated herein by reference, and N.J.S.A. 4:7-13, 14 and 18.

2:20-7.6 Treatment or destruction of diseased or infested plants; report to APHIS

(a) If the Department finds evidence of exotic plant pests infesting or infecting plants grown under postentry quarantine, the Department shall recommend to APHIS safeguards or pest mitigation methods to be taken to control the pest.

(b) Upon the Department's receipt from APHIS of a copy of an emergency action notification relating to plants in postentry quarantine that show evidence of infestation or infection with an exotic plant pest, the Department shall supervise any pest mitigation methods taken to control the pest and the plants shall be subject to control measures, including destruction, in accordance with 7 C.F.R. § 319.37-7, as amended and supplemented, incorporated herein by reference, and N.J.S.A. 4:7-8, 16 through 19, and 23.

(c) The Department shall report to APHIS any pest mitigation actions taken at the postentry quarantine site.

SUBCHAPTER 8. ASIAN LONGHORNED BEETLE

2:20-8.1 Definitions

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.

"Asian longhorned beetle" means the insect known as Asian longhorned beetle (*Anoplophora glabripennis*) in any stage of development.

"Certificate" means any document which is issued for regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for movement outside the quarantine area designated in N.J.A.C. 2:20-8.5.

"Department" means the New Jersey Department of Agriculture.

"Exposed" means determination by an inspector to be at risk for spreading Asian longhorned beetle.

"Infestation" means the presence of Asian longhorned beetle in any life stage.

"Inspector" means any person officially designated by the Department, or an employee of APHIS, authorized to enforce the provisions of this subchapter.

"Move" means to ship, carry, transport, offer for shipment, receive for shipment, or allow to be transported by any means.

"Movement" means the act of shipping, carrying, transporting, offering for shipment, receiving for shipment, or allowing to be transported by any means.

"Notification by the Department" mean an official written order issued by the Secretary of Agriculture specifying conditions found, actions the recipient shall carry out, and a specified time frame by which the order must be complied with.

"Nursery" means any premises, including greenhouses but excluding any orchard, at which plants are grown or maintained for propagation or replanting.

"Person" means an individual, firm, corporation, company, limited liability company, society, association, or other business.

"Plant" means any part of a plant, tree, aquatic plant, plant product, shrub, vine fruit, rhizome, sod, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft or fruit.

"Quarantined area" means any area designated as a quarantined area in accordance with N.J.A.C. 2:20-8.5.

"Regulated article" means any article listed in N.J.A.C. 2:20-8.4.

"Regulated fruit, regulated plant, regulated seed, regulated tree" means any fruit, plant, seed, or tree defined as a regulated article.

2:20-8.2 Asian longhorned beetle declared a nuisance

The State Board of Agriculture declares that the Asian longhorned beetle, a dangerously injurious insect not known to be native to New Jersey, that damages hardwood trees especially maple (Norway, sugar, silver and red), birch, horsechestnut, poplar, willow, and elm by boring through bark, tunneling and girdling the tree until the tree is killed, to be a nuisance.

2:20-8.3 Restrictions on movement of plant material

No person may move any regulated articles listed at N.J.A.C. 2:20-8.4, or which are subject to the requirements of 7 C.F.R. § 301.51, Asian longhorned beetle quarantine, as amended and supplemented, and incorporated herein by reference, outside the quarantine area designated in N.J.A.C. 2:20-8.5.

2:20-8.4 Regulated articles

(a) Regulated articles are as follows:

1. Firewood, green lumber, nursery stock, or any material living, dead, cut, or fallen off logs, stumps, roots, branches or debris of half an inch or more of the following genera: Maple (*Acer* spp.), Horsechestnut (*Aesculus* spp.), Willow (*Salix* spp.), Elm (*Ulmus* spp.), Birch (*Betula* spp.), Mimosa (*Albizia julibrissin*), Hackberry (*Celtis* spp.), Ash (*Fraxinus* spp.), Sycamore/Planetree (*Platanus* spp.), Mountain Ash (*Sorbus* spp.), and Poplar (*Populus* spp.).

2. Any other product, article, or means of conveyance, of any character whatsoever, not covered by (a)1 above, when it is determined by an inspector that it presents a risk of spread of Asian longhorned beetle and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this subchapter.

Emergency amendment, R.2004 d.345, effective August 17, 2004 (to expire October 16, 2004).

See: 36 N.J.R. 4172(a).

In (a), rewrote 1.

Administrative correction.

See: 36 N.J.R. 4327(a).

Concurrent adopted amendment, R.2004 d.419, effective October 12, 2004.

See: 36 N.J.R. 4172(a), 36 N.J.R. 4327(a), 36 N.J.R. 5087(a).

Provisions of R.2004 d.345 adopted with change incorporated at 36 N.J.R. 4327(a).

2:20-8.5 Quarantine area

(a) By order of the State Board of Agriculture and pursuant to N.J.S.A. 4:1-21.5, in order to control the spread of Asian longhorned beetle, a menace to the hardwood forests of New Jersey, the following municipalities are hereby quarantined:

1. Middlesex County: The Borough of Carteret. The area that is as bounded as follows: Beginning at Blair Road at the Woodbridge Township border along Blair Road

north to Roosevelt Avenue, continuing northeast along the Carteret-Woodbridge border to the Rahway River; east along the Rahway River to the Arthur Kill River; south along the Arthur Kill River to a point where Roosevelt Avenue meets the Arthur Kill River; south along Roosevelt Avenue to the junction of Port Reading Avenue; and northwest along the Carteret-Woodbridge border to the point of the beginning.

2. Middlesex County: The Township of Woodbridge. The area that is bounded as follows: Beginning at Blair Road at the border of the Borough of Carteret east to the intersection of Rosewood Lane and Willow Street; south-east along Willow Street continued along the Woodbridge-Carteret border to the junction of Port Reading Avenue and Roosevelt Avenue; west southwest along Port Reading Avenue to the railroad; west along the railroad right of way to Blair Road; north along Blair Road to the point of the beginning.

3. Middlesex County: The Township of Woodbridge (Avenel Section). The area that is bounded as follows: Beginning at Blair Road at the Woodbridge-Carteret border, west along the railroad right of way to the NJ Transit railroad right of way; north along the railroad right of way to the Woodbridge-Rahway border, then east along the Woodbridge-Rahway border to Randolph Avenue; continuing east along Randolph Avenue to Blair Road; south along Blair Road to the point of the beginning.

4. Union County: The City of Rahway. That area that is bounded as follows: Beginning at the intersection of New Brunswick Avenue and St. Georges Avenue; north along St. Georges Avenue to the eastern border of Rahway River Park (Union County Park); north along the eastern border of Rahway River Park to the Clark-Rahway border; northeast along the Clark-Rahway border to the Rahway-Linden border; southeast along the Rahway-Linden border to Lower Road; south along the Rahway-Linden border to the Rahway River; south along the Woodbridge-Rahway border to Randolph Avenue; west along Randolph Avenue following the Woodbridge-Rahway border to the intersection of East Inman Avenue and Leesville Avenue; northwest along East Inman Avenue to the South Branch of the Rahway River; west along the South Branch of the Rahway River to St. Georges Avenue; to the point of the beginning.

5. Union County: The City of Linden. The entire City of Linden.

6. Union County: The Borough of Roselle. The area that is bounded as follows: Beginning at the intersection of Locust Street (County Road 619) and West Grand Avenue (Union County 610); east on West Grand Avenue to the Roselle Borough-Elizabeth City border; southeast along the Roselle Borough-Elizabeth City border to St. Georges Avenue (State Highway 27); southwest along St. Georges Avenue (State Highway 27) to Wood Street (County Road 617); northwest on Wood Street to East 5th Avenue;

northeast along East 5th Avenue to Locust Street; north along Locust Street to the point of the beginning.

7. Union County: Elizabeth City. The area that is bounded as follows: Beginning on West Grand Avenue at the Roselle Borough-Elizabeth City border; east on West Grand Avenue to Chilton Street; south on Chilton Street to South Street; east on South Street to Broad Street; south on Broad Street to Summer Street; east on Summer Street to the Elizabeth River; southeast on the Elizabeth River to the Arthur Kill River; south along the Arthur Kill River to the Linden-Elizabeth City border; northwest along the Linden-Elizabeth City border to Rahway Avenue (State Highway 27); southwest on Rahway Avenue to the Roselle Borough-Elizabeth City border; northwest along the Roselle Borough-Elizabeth City border to the point of the beginning.

8. Union County: Township of Clark. The area bounded as follows: Beginning at the intersection of the eastern border of the Rahway River Park (Union County Park) and the Clark-Linden border; south along the eastern border of Rahway River Park (Union County Park) to the Clark-Rahway border; east along the Clark-Rahway border to the Clark-Linden border; northwest along the Clark-Linden border to the point of the beginning.

(b) The Secretary of Agriculture may temporarily designate any nonquarantined area in New Jersey as a quarantined area, if the Secretary has reason to believe that Asian longhorned beetle is present based on positive confirmation of Asian longhorned beetle by the Department, or by USDA APHIS.

Emergency amendment, R.2004 d. 345, 348, effective August 17 and 19, 2004 (to expire October 16 and 18, 2004).

See: 36 N.J.R. 4172(a), 4174(a).

In (a), added 3 through 7.

Adopted concurrent amendments, R.2004 d.419 and d.420, effective October 12, 2004.

See: 36 N.J.R. 4172(a), 36 N.J.R. 4174(a), 36 N.J.R. 5087(a), 36 N.J.R. 5087(b).

Provisions of R.2004 d.345 and d.348 adopted without change.

Emergency amendment, R.2005 d. 45, effective December 27, 2004 (to expire February 25, 2005).

See: 37 N.J.R. 357(a).

In (a), rewrote 6, 7.

Adopted concurrent amendment, R.2005 d.99, effective April 4, 2005.

See: 37 N.J.R. 357(a), 37 N.J.R. 1051(a).

In (a), rewrote 6 and 7.

Emergency amendment, R.2005 d.320, effective August 25, 2005, (to expire October 24, 2005).

See: 37 N.J.R. 3727(a).

In (a), rewrote 7.

Adopted concurrent amendments, R.2006 d.6 and d.7, effective January 3, 2006.

See: 37 N.J.R. 3099(a), 37 N.J.R. 3727(a), 38 N.J.R. 124(a), 38 N.J.R. 124(b).

Provisions of R.2005 d.320 adopted without change; in (a), deleted 1 and 2 and recodified existing 3-7 as 1-5.

Emergency amendment, R.2006 d.168, effective April 12, 2006 (to expire June 11, 2006).

See: 38 N.J.R. 1875(a).

In (a), added 6 and 7; in (a)1, inserted "the confluence of Cross Creek; south along Cross Creek to Peter J. Sica Industrial Drive"; and in (a)5, inserted "northeast along Saint Georges Avenue (State Highway 27) the Roselle Borough-Linden border to the Linden-Elizabeth City border; southeast along the Linden-Elizabeth City border".

Emergency amendment, R.2006 d.239, effective May 31, 2006 (to expire July 30, 2006).

See: 38 N.J.R. 2739(a).

Rewrote (a)1, 4-7 and added 8.

Concurrent adopted amendment, R.2006 d.282, effective August 7, 2006.

See: 38 N.J.R. 1875(a), 38 N.J.R. 2739(a), 38 N.J.R. 3159(b).

Provisions of R.2006 d.168, d.239 adopted with changes incorporated at 38 N.J.R. 2739(a).

2:20-8.6 Right of access

(a) Duly authorized representatives of the Department may enter upon any lands or premises, public or private, within the State for the purpose of making necessary inspections for Asian longhorned beetle, and for the removal of condemned trees.

(b) Persons interfering with or obstructing the Department or an inspector in the conduct of inspections for Asian longhorned beetle shall be subject to the sanctions provided at 7 C.F.R. § 301.51, as amended and supplemented, incorporated herein by reference, and N.J.S.A. 4:7-13, 14 and 18.

2:20-8.7 Notification of infestation, treatment order

A written Notice of Infestation—Treatment Order will be issued to the affected person by the Secretary of Agriculture, following positive confirmation of Asian longhorned beetle by the Department. The recipient shall have all plant material specified in the order treated to eradicate Asian longhorned beetle in a manner approved by the Secretary of Agriculture, including the destruction of infected trees. The notice or order shall specify a time, not less than three days from its date, within which it must be complied with.

2:20-8.8 Conditions of movement, certification

(a) No firewood, green lumber, logs, nursery stock, or other regulated articles may be moved from the quarantined area, unless accompanied by written approval issued by the Department, or as is permitted in accordance with the requirements at 7 C.F.R. § 301.51-4.

(b) A person whose stock has been tested to the satisfaction of the Department and found free from Asian longhorned beetle, wishing to move regulated plants shall be provided with a certificate issued by the Department.

(c) The Department reserves the right to charge an inspection fee, pursuant to N.J.A.C. 2:18, to recover costs associated issuing an inspection certificate.

SUBCHAPTER 9. PINE SHOOT BEETLE

2:20-9.1 Adoption of the Federal Pine Shoot Beetle Quarantine Standards

(a) The Department hereby adopts and incorporates by reference the following parts of the Federal Pine Shoot Beetle Quarantine, 7 CFR §301.50 et seq., effective Jan. 28, 1993, as amended and supplemented:

1. Section 301.50 – Restrictions on interstate movement of regulated articles;
2. Section 301.50-1 – Definitions;
3. Section 301.50-2 – Regulated articles;
4. Section 301.50-4 – Conditions governing the interstate movement of regulated articles from quarantined areas;
5. Section 301.50-5 – Issuance and cancellation of certificates and limited permits;
6. Section 301.50-6 – Compliance agreements and cancellation;
7. Section 301.50-7 – Assembly and inspection of regulated articles;
8. Section 301.50-8 – Attachment and disposition of certificates and limited permits;
9. Section 301.50-9 – Costs and charges; and
10. Section 301.50-10 – Treatments.

(b) A copy of the Federal Pine Shoot Beetle Quarantine is available by contacting the Director's Office, Division of Plant Industry, New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, P.O. Box 330, Trenton, New Jersey 08625.

2:20-9.2 Definitions

(a) As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“APHIS” or “USDA-APHIS” means the United States Department of Agriculture Animal and Plant Health Inspection Service.

“Compliance Agreement” means a written agreement between APHIS or the Department and a person engaged in growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions of this Subchapter and 7 CFR §301.50 et seq.

“Department” means the New Jersey Department of Agriculture.

“Infestation” means the presence of the pine shoot beetle in any life stage or the existence of circumstances that make it reasonable to believe that the pine shoot beetle is present.

“Move” means to ship, carry, transport, offer for shipment, receive for shipment, or allow to be transported by any means.

“Movement” means the act of shipping, carrying, transporting, offering for shipment, receiving for shipment, or allowing to be transported by any means.

“NJDA Certificate” means the document issued for a regulated article by an N.J. inspector to a person operating under a compliance agreement, which represents that such article is eligible for movement outside the quarantine area designated in N.J.A.C. 2:20-9.6.

“N.J. Inspector” means any person officially designated by the Department, or an employee of APHIS, authorized to enforce the provisions of this subchapter.

“N.J. Secretary of Agriculture” means the official appointed as the Secretary of Agriculture for the New Jersey Department of Agriculture.

“N.J. quarantined area” means any area designated as quarantined in accordance with N.J.A.C. 2:20-9.5.

“N.J. regulated article” means any article listed in N.J.A.C. 2:20-9.5 and 7 CFR §301.50-2.

“Notification by the Department” means an official written order issued by the N.J. Secretary of Agriculture specifying conditions found, actions the recipient shall carry out, and a specified timeframe by which the order must be complied with.

“Nursery” means any premises, including greenhouses but excluding any orchard, at which plants are grown or maintained for propagation or replanting.

“Pine shoot beetle” means the insect known as pine shoot beetle (*Tomicus piniperda*) in any stage of development.

“Plant” means any part of a plant, tree, aquatic plant, plant product, shrub, vine fruit, rhizome, sod, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft or fruit.

“Plant product” means every agricultural, horticultural, viticultural, and vegetable product of the soil, hay, dried beans, and cut flowers; and raw pine materials for pine wreaths and garlands.

“Regulated fruit, regulated plant, regulated seed, regulated tree” means any fruit, plant, seed, or tree defined as a regulated article.

(b) The words, terms and phrases set forth in (a) above are to be used in addition to and in conjunction with the words, terms and phrases set forth in 7 CFR §301.50-1.

2:20-9.3 Pine shoot beetle declared a nuisance

The State Board of Agriculture declares the pine shoot beetle, a dangerously injurious insect not known to be native to New Jersey that damages coniferous trees especially pine (Scots, red, and eastern white pine), balsam fir, Norway spruce and larch, to be a nuisance.