

(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

Authority

N.J.S.A. 4:1-21.2, 4:1-21.5, 4:1-21.6 and 4:7-1 et seq.

Source and Effective Date

R.2002 d.365, effective October 15, 2002.
See: 34 N.J.R. 3863(a).

Subchapter Historical Note

Subchapter 8, Asian Longhorned Beetle, was adopted as emergency new rules by R.2002 d.365, effective October 15, 2002 (to expire December 14, 2002). See: 34 N.J.R. 3863(a).

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: *Acer* (maple), *Aesculus* (horsechestnut), *Betula* (birch), *Hibiscus syriacus* (Rose of Sharon), *Malus* (apple), *Melia* (chinaberry), *Morus* (mulberry), *Populus* (poplar), *Prunus* (cherry), *Pyrus* (pear), *Robinia* (locust), *Salix* (willow), *Ulmus* (elm) and *Citrus*.

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.

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 in the State of New Jersey, the following municipalities are hereby quarantined:

1. Hudson County: The City of Jersey City. That area that is bounded as follows: Beginning at the intersection of Paterson Plank Road and S. Wing Viaduct; then south to Congress Street; then west along Congress Street to Webster Avenue; then south along Webster Avenue to Bowers Street; then west along Bowers Street to Summit Avenue; then south along Summit Avenue to Fairmount Avenue; then east to Grant Street; then east along Grant Street to the shoreline of the Hudson River; then north along the shoreline of the Hudson River to the Hoboken-Jersey City border.

2. Hudson County: The City of Hoboken. That area that is bounded as follows: Beginning at the shoreline of the Hudson River east of the intersection of Hudson Street and 11th Street; then west along 11th Street to the railroad tracks; then south along the railroad tracks to the Hoboken-Jersey City border; then east along the Hoboken-Jersey City border River to the shoreline of the Hudson River; then north along the shoreline of the Hudson River 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.

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 long-horned 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.