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, MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

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 - Rp, 21.17.27.2 NMAC, 9/01/2027]

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 - Rp, 21.17.27.3 NMAC, 9/01/2027]

21.17.27.4 DURATION: Permanent.
[21.17.27.4 NMAC - Rp, 21.17.27.4 NMAC, 9/01/2027]

21.17.27.5 EFFECTIVE DATE: September 1, 2027 unless a later date is cited at the end of a section.
[21.17.27.5 NMAC - Rp, 21.17.27.5 NMAC, 9/01/2027]

21.17.27.6 OBJECTIVE: Japanese beetle continues to be introduced into previously uninfested western states, primarily through the shipment of infested nursery stock originating from infested areas. Improper insecticide applications (timing, rate etc.), disregard of destination states' quarantines, and transshipment of nursery stock all contribute to Japanese beetle spread. The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico by requiring compliance agreements and state phytosanitary certificates associated with nursery stock shipments into New Mexico. Note that New Mexico does not recognize all elements of the Japanese beetle harmonization plan.
[21.17.27.6 NMAC - Rp, 21.17.27.6 NMAC, 9/01/2027]

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. **"Compliance agreement"** means a written and signed contract issued by the department to the origin state department of agriculture, exporting nursery and other parties. Compliance agreements shall state import requirements, including phytosanitary certificate declarations, insecticide treatment requirements, and trapping protocols that will support the movement of regulated articles from quarantined areas to New Mexico.

C. **"Department"** means the New Mexico department of agriculture.

D. **"Director"** means the director of New Mexico department of agriculture.

E. **"Free of soil"** means absence of soil or planting media in an amount that may harbor Japanese beetle as determined by the department.

F. **"Gramineous"** means plants belonging to the poales order that display long, narrow (linear), grass-like leaves and grow with roots embedded in or in contact with soil or soilless media including ornamental grasses, sedges, rushes, and grass sod. For the purpose of this quarantine, gramineous excludes soilless plugs.

G. "**Infested"** means the presence of Japanese beetle or circumstances that indicate Japanese beetle may be present or the actual status of the presence of Japanese beetle is not determinable as determined by the department.

H. **"Nongramineous"** means any plant that is not gramineous, as defined in 21.17.27.7 NMAC.

I. **"Nursery"** means any location in which nursery stock is propagated, cultivated or maintained including sod farms.

J. **"Phytosanitary Certificate"** an official document or equivalent issued by the origin state's department of agriculture affirming compliance with quarantine rule or compliance agreement requirements.

K. **"Transship**" means to ship nursery stock previously maintained or growing at a location other than the nursery exporting to New Mexico within the previous 12 months.
[21.17.27.7 NMAC - Rp, 21.17.27.7 NMAC, 9/01/2027]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

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

B. **Areas under quarantine:** All states of the United States including the District of Columbia; and Canadian provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Quebec.

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 by the department to occur or their status has not been determined shall be included as an area under quarantine.

D. **Regulated articles:**

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

(2) All gramineous plants.

(3) Nongramineous plants with roots and soil or soilless medium.

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

(5) Unsterilized soil or soilless media.

(6) Any other articles not covered by this subsection are regulated articles when determined by the department that they present a risk of introducing Japanese beetle into New Mexico.
[21.17.27.8 NMAC - Rp, 21.17.27.8 NMAC, 9/01/2027]

21.17.27.9 SHIPPING RESTRICTIONS

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine without a current and signed compliance agreement. All shipments shall be accompanied by a copy of a valid compliance agreement and a phytosanitary certificate as stipulated in the compliance agreement.

B. Shipping documents, phytosanitary certificates, and compliance agreements associated with regulated articles shall be retained by the New Mexico nursery for at least 12 months after delivery. Documents shall be made available to the department upon request.

C. Transhipped regulated articles are prohibited entry into New Mexico unless it originates from a department approved nursery location or otherwise complies with requirements within an approved compliance agreement.
[21.17.27.9 NMAC - Rp, 21.17.27.9 NMAC, 9/01/2027]

21.17.27.10 COMPLIANCE AGREEMENT OPTIONS AND REQUIREMENTS: Compliance agreements may allow for shipments of regulated articles based on one of the following options:

A. **Single-Nursery Japanese Beetle Free Compliance Agreement:** Regulated articles including gramineous plants originating in locations not infested based on a department approved trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season at each growing location. Transshipment requirements shall be addressed in each compliance agreement. Transshipments may be allowed from a department approved location. Other requirements as stated by the department apply.

B. **Areawide-Nursery Japanese Beetle Free Compliance Agreement:** Regulated articles originating in an area, county or state not infested based on a department approved extensive and annual areawide trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season throughout the area covered under the compliance agreement and in proximity to exporting nurseries. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

C. **Exclusionary Facility Compliance Agreement:** Regulated articles including gramineous plants grown in certified Japanese beetle exclusion greenhouses located in an infested area or in an area in which the status of Japanese beetle is unknown. Greenhouses to be certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of

agriculture and inspection reports shall be made available to the department. Compliance agreements issued under this option shall cover only individual nurseries. Transshipment, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

D. Infested Area Single-Nursery Compliance Agreement: Regulated articles grown in field or in a greenhouse not certified for exclusion in infested locations or in a location in which the status of Japanese beetle is unknown. All regulated articles shall be treated to destroy Japanese beetle infestations in accordance with 21.17.27.11 NMAC. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements shall include properly timed treatments and a department approved method (e.g., trapping program in the area, degree-day model validated for the area) for determination of first Japanese beetle emergence to ensure proper treatment timing. Compliance agreements issued under this option shall cover only individual nurseries. Shipment of gramineous plants including sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.
[21.17.27.10 NMAC - N, 9/01/2027]

21.17.27.11 CHEMICAL TREATMENT REQUIREMENTS: Treatment of regulated articles as addressed in rule or compliance agreements shall be carried out according to the following requirements.

A. Active ingredients and method of application shall be approved by the department prior to application.

B. Applications shall be timed to ensure all hatching Japanese beetle larvae are eradicated. Timing shall be based on a department approved method (e.g., trapping program in the area, degree-day model validated for the area).

C. Nursery stock treated solely during or following flight period is prohibited from entering New Mexico.

D. Regulated stock requiring treatment must be accompanied by a phytosanitary certificate listing treatment active ingredient and method with the following additional declaration. “The rooted plants were treated to control *Popillia japonica* using a method approved by New Mexico Department of Agriculture.”

E. Regulated stock requiring treatment and covered under a compliance agreement must list the compliance agreement number in the phytosanitary certificate.
[21.17.27.1 NMAC - N, 9/01/2027]

21.17.27.12 EXCEPTIONS:

A. Houseplants maintained in the home and not for sale are exempt.

B. Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as “ball and burlap” with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate. Treatments shall be carried out in accordance with 21.17.27.11 NMAC.

C. Soil samples of one pound or less which are packaged so that no soil will be spilled in transit are exempt.

D. Soil samples of any size collected and shipped to any United States army corps of engineers soil laboratory are exempt.

E. Exceptions may be granted or limited upon departmental review.
[21.17.27.12 NMAC - Rp, 21.17.27.10 NMAC, 9/01/2027]

21.17.27.13 DISPOSITION OF VIOLATIONS: Failure to comply with the Japanese beetle quarantine shall be subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All mitigation methods including transportation, treatment and disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the department for all costs, including attorney’s fees

and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.
[21.17.27.13 NMAC - Rp, 21.17.27.11 NMAC, 9/01/2027]

21.17.27.14 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC
[21.17.27.14 NMAC – N, 9/01/2027]

21.17.27.15 LIABILITY DISCLAIMER: The board disclaims liability for any costs incurred from inspection or compliance with the provisions of this rule.
[21.17.27.15 NMAC - Rp, 21.17.27.12 NMAC, 9/01/2027]

21.12.27.16 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.
[21.17.27.16 NMAC - N, 9/01/2027]

History of 21.17.27 NMAC:
21.17.27 NMAC - Japanese Beetle Exterior Quarantine, filed 6/30/2011 was repealed and replaced by 21.17.27 NMAC - Japanese Beetle Exterior Quarantine, effective 9/01/2027.