

**COMPARISON BETWEEN CURRENT JAPANESE BEETLE EXTERIOR QUARANTINE RULE (21.17.27 NMAC)
AND PROPOSED RULE CHANGES**

Section (as updated)	<u>Current 2011 Japanese Beetle Exterior Quarantine</u>	<u>Proposed Japanese Beetle Exterior Quarantine</u>	<u>Key Difference / Impact</u>
21.17.27.5 Effective Date	June 30, 2011	September 1, 2027	Effective date updated
21.17.27.6 Objective	Short statement about reducing the risk of introducing JB into NM	Clear and in-depth explanation of western-state spread of JB, nursery stock pathway, treatment timing issues, transshipment risks, compliance agreements and phytosanitary certificate requirements.	Objectives are much broader and offer a clear direction
21.17.27.7 Definitions	Few basic definitions for existing rule	Definitions added: 1) Compliance Agreement 2) Gramineous 3) Infested includes states w/unknown JB population 4) Nongramineous 5) Nursery 6) Transship Definitions revised: 1) Free of soil expanded 2) Phytosanitary Certificate 3) Infestation clarified	Added and revised definitions for clarity to be in line with current nursery shipping, production and sales practices and goals
21.17.27.8(B) Areas Under Quarantine	Specific list of certain states based on vague U.S. Harmonization Plan	All U.S. states, D.C., and several Canadian provinces	Quarantine area expanded. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(C) Additional Areas	Areas where beetles were found or believed to occur	Specifies department discretion; adds areas for quarantine whose JB status has not been determined (FL, LA, etc.)	Current version is broader. NM will not be incorporating JB Harm. Plan in this new rule
21.17.27.8(D) Regulated Articles	Grass and grass sod, regardless of container size, and plants over 12" and cubic area thresholds	All gramineous plants and Nongramineous plants (all other plants) with roots and soil or soilless medium, Designated size of container has been deleted and moved to exceptions section; revised catch-all language to be more inclusive of materials which may present risk	Current version covers most plants in this section, specific regulated articles added, more comprehensive of risk
21.17.27.9(A) Shipping/ Restrictions	Entry allowed with phytosanitary certificate or compliance agreement under listed options and within JB Harmonization Plan Framework	Entry prohibited without current signed compliance agreement; shipment must include compliance agreement + phytosanitary certificate (when required)	Stricter documentation requirements; compliance agreement always required, phytosanitary certificate required if stipulated in compliance agreement.
21.17.27.9(B)	Certificates/compliance agreements attached to outside of container or shipping documents	Shipping docs, phytosanitary certificates, and compliance agreements must be available by NM nursery for 12 months for NMDA	Time period for shipping records and approved shipping docs stated
21.17.27.9(C)	Director may make exceptions, modifications, or additions	Transshipped regulated articles prohibited unless from approved location or compliant under agreement and trapping data	Current section shifts to transshipment control and traceability; department ability to make exceptions moved to 21.17.27.12 Exceptions

21.17.27.10 Compliance Agreement Options and Requirements	Not present; section number previously “Exceptions”	Listing of options available to ship regulated articles into NM	New; creates compliance agreement options and requirements
21.17.27.10(A)	Not present	Single-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for single- nursery agreement based on negative trapping data at nursery location
21.17.27.10(B)	Not present	Areawide-Nursery Japanese Beetle Free Compliance Agreement	New; outlines requirements for areawide- nursery agreement based on areawide trapping data
21.17.27.10(C)	Not present	Exclusionary Facility Compliance Agreement	New; outlines requirements for single- nursery agreement based on facility's ability to exclude Japanese beetle
21.17.27.10(D)	Not present	Infested Area Single-Nursery Compliance Agreement using a approved treatment	New; outlines requirements for single- nursery agreement based on treatment
21.17.27.11 Chemical Treatment Requirements	Not present as a separate section; section number previously “Disposition of Violations;” the language addressing treatment refers to the JB Harmonization Plan	Chemical Treatment Requirements Department- approved active ingredients/methods, timing rules, no entry for stock treated only during/following flight period, certificate declaration, compliance agreement number	New; major new operational/treatment requirements. Treatments approved by the department, not dictated under JB Harmonization Plan
21.17.27.12 Exceptions	None	Houseplants not for sale are exempt; smaller nongramineous plants allowed without compliance agreement if treated/certified; small soil samples exempt under certain conditions; USACE soil samples exempt; allows department- granted exceptions	Current document creates multiple explicit exceptions
21.17.27.13 Disposition of Violations	Failure to comply is violation; board may direct disposal/removal/other mitigation (Formerly 21.17.27.11)	Clarifies quarantine, expulsion/destruction, owner/agent cost responsibility, reimbursement, invoice/payment deadline, and legal action mitigation measures; language directly from pecan nut exterior quarantine	Enforcement provisions expanded considerably, clarifies financial responsibility
21.17.27.14 Fees	Not present	Special inspections/requested services may be subject to fees under 21.1.2 NMAC	New cost recovery provision
21.17.27.15 Liability Disclaimer	Not present as section 15	Board disclaims liability for costs incurred from inspection or compliance	Liability disclaimer moved from 12 to 15 and reworded
21.17.27.15 Liability Disclaimer	Formerly 21.17.27.12		New section
21.17.27.16	Not present	Clarifies that regulated articles are also subject to provisions of other laws etc. that apply	New legal clarification
History oof 21.17.27 NMAC	Not Present	States 2011 rule was repealed and replaced effective 9/01/2027	New section; history added