

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 36 PECAN WEEVIL INTERIOR QUARANTINE

21.17.36.1 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.
[21.17.36.1 NMAC - N/E, 11/20/2017]

21.17.36.2 SCOPE: Part 36 of Chapter 17 applies to all person(s) transporting regulated articles from infested counties in New Mexico to New Mexico pecan weevil-free counties.
[21.17.36.2 NMAC - N/E, 11/20/2017]

21.17.36.3 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 and the Pecan Act, Chapter 76, Article 16, Sections 1 through 9, NMSA 1978 compilation.
[21.17.36.3 NMAC - N/E, 11/20/2017]

21.17.36.4 DURATION: 180 days
[21.17.36.4 NMAC - N/E, 11/20/2017]

21.17.36.5 EFFECTIVE DATE: November 20, 2017
[21.17.36.5 NMAC - N/E, 11/20/2017]

21.17.36.6 OBJECTIVE: The objective of Part 36 of Chapter 17 is to establish an interior quarantine to restrict the transportation of pecan weevil from quarantined areas to non-quarantined areas in New Mexico.
[21.17.36.6 NMAC - N/E, 11/20/2017]

21.17.36.7 DEFINITIONS:

- A. “Board”** means the board of regents of New Mexico state university or any officer whom authority to act in their stead has been or hereafter may be delegated.
- B. “Certificate”** means a document issued or authorized by the director with specific declarations related to the treatment, handling, transportation, condition or other processes related to regulated articles.
- C. “Compliance Agreement”** means a document issued or authorized by the director that outlines/identifies specific requirements related to the transportation, treatment, handling or processes related to regulated articles.
- D. “Department”** means the New Mexico department of agriculture and authorized staff.
- E. “Director”** means director secretary of New Mexico department of agriculture.
- F. “Infested”** means reasonable expectation that regulated articles may harbor pecan weevil.
- G. “Originating”** means produced within or having spent sufficient time in a quarantined area to be believed to be at risk of being infested.
- H. “Pecan weevil”** means any live developmental stage or synonym of *curculio caryae* (horn) including adult, pupae, larvae, or egg.
- H. “Regulated article”** means pecan weevil, plant tissue, equipment, trailers, or any other item capable of or having a reasonable expectation of harboring pecan weevil. Including in-shell pecans; sacks used in harvesting, storage, transporting or storing of in-shell pecans; harvesting equipment; live trees or parts thereof with soil attached; hulls, husks, and fragments of hull.

[21.17.36.7 NMAC - N/E, 11/20/2017]

21.17.36.8 QUARANTINE AREAS: The following counties are quarantined areas: Eddy, Lea, Curry, and Chaves counties. Additional counties may become quarantined areas by the director issuing an emergency quarantine, amendment of this rule, or the promulgation of a new quarantine rule.
[21.17.36.8 NMAC - N/E, 11/20/2017]

21.17.36.9 RESTRICTIONS ON REGULATED ARTICLES: To prevent the spread of pecan weevil in New Mexico, the board hereby orders and declares regulated articles cannot be transported out of the quarantined areas, except under the following conditions:

A. Transportation of in-shell pecans, hulls, husks, shell fragments, containers associated with the harvesting, transportation, or storage of in-shell pecans originating in quarantined counties to or through non-quarantined areas in New Mexico will be allowed as follows:

(1) Accompanied by a certificate of treatment, issued by an authorized representative of the department, for each shipment of regulated articles, certifying treatment under official supervision or agreement prior to transporting out of the quarantined area. Acceptable treatments are prescribed under 21.17.36 NMAC. The certificate must include contact information for pecan owner, shipment amount, date, treatment method, destination address and name.

(2) Transported in enclosed trailers or other containers approved by the director and transported directly to a facility/location approved by the director and that is capable of providing the treatment(s) as defined under 21.17.36 NMAC.

(3) Transportation of regulated articles, using alternative methods, may be approved under a compliance agreement issued by the director.

B. Transportation of regulated articles not identified in Subsection A of 21.17.36.9 NMAC including equipment and supplies, originating in quarantined area, to or through non-quarantined areas in New Mexico will be allowed following inspection and issuance of a certificate that identifies regulated articles as not being infested. [21.17.36.9 NMAC - N/E, 11/20/2017]

21.17.36.10 RECORDS REQUIREMENTS: Every individual or business that buys or takes possession of in-shell pecans for marketing/resale or processing is required to maintain records related to each individual purchase or transaction. The record must include: contact information of seller, physical location of where nuts were grown, and amount of nuts purchased. Individuals or businesses are required, upon request by the department or authorized agent, to provide access to the records relevant to the transportation or origin of in-shell pecans. Records to be maintained a minimum of four years after the year of harvest. [21.17.36.10 NMAC - N/E, 11/20/2017]

21.17.36.11 DISPOSITION OF VIOLATIONS: Any regulated article transported in New Mexico that is in violation of this rule will be subject to immediate quarantine and treatment or otherwise disposed of as necessary to prevent the spread or establishment of pecan weevil in non-quarantined area in New Mexico. All treatment or disposal will be at the expense of the owners or agents and under the direction of the department. [21.17.36.11 NMAC - N/E, 11/20/2017]

21.17.36.12 TREATMENT OF REGULATED ARTICLES: Individuals or businesses must be approved by the director prior to receiving in-shell pecans or other regulated articles for treatment. Compliance agreements will be issued to those individuals or business demonstrating the capabilities to provide treatment using one of the following methods:

A. Storage in an approved cold storage chamber at or below zero degrees fahrenheit for a period of seven consecutive days (168 hours) after the entire lot reaches zero degrees fahrenheit; or

B. Immersion in hot water for a period of five minutes after-reaching a temperature of 140 degrees fahrenheit; or

C. Other treatment methods may be approved under a compliance agreement issued by the director. [21.17.36.12 NMAC - N/E, 11/20/2017]

21.17.36.13 FEES: Certificates, special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 9 of 21.1.2 NMAC. [21.17.36.13 NMAC - N/E, 11/20/2017]

21.17.36.14 LIABILITY DISCLAIMER: The board and the department disclaims liability for any costs incident to inspection or compliance with the provisions of this rule. [21.17.36.14 NMAC - N/E, 11/20/2017]

21.17.36.15 **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 or the United States department of agriculture now in effect or which may hereafter be promulgated.
[21.17.36.15 NMAC - N/E, 11/20/2017]

HISTORY OF 21.17.36 NMAC: [RESERVED]