

WSR 22-17-068

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 15, 2022, 2:38 p.m., effective September 15, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests, by establishing an internal quarantine for Japanese beetle within Washington state. The quarantine area covers 49 square miles in the southeastern corner of Yakima County and the southwestern corner of Benton County. The proposed quarantine prohibits the movement of regulated articles located inside the quarantine area from moving outside of it unless they are treated in a manner described in the rule.

Citation of Rules Affected by this Order: New WAC 16-470-717; and amending WAC 16-470-700, 16-470-705, 16-470-710, 16-470-715, and 16-470-720.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

Adopted under notice filed as WSR 22-13-049 on June 8, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 15, 2022.

Derek I. Sandison
Director

OTS-3793.2

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-700 Quarantine—Japanese beetle. A quarantine is established under this chapter against all live life stages of the insect pest Japanese beetle (*Popillia japonica* Newman), a member of the family Scarabaeidae. The Japanese beetle is a persistent, serious, and highly destructive pest, attacking the roots, leaves, and fruits of over (~~three hundred~~) 300 kinds of plants including fruit trees, ornamentals, and field and vegetable crops. The director of agriculture has determined that the regulation and exclusion of Japanese beetle is necessary to protect the environmental quality, forests, horticulture, floriculture, and agricultural crops of the state of Washington.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-700, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-700, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-705 Areas under quarantine. (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

((2)) (a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

((a)) (i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

((b)) (ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

((c)) (iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

((3)) (b) A plant health official of any state may request exemption of one or more counties under ((subsection (2) of)) this ((section)) subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude N46°18'8" and longitude W120°0'26"; thence easterly across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28"; thence northerly to the point of beginning.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-705, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-705, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-710 Regulated articles. The following are declared to be hosts or possible carriers of Japanese beetle and are ~~((prohibited entry into this state from an area under quarantine as declared in WAC 16-470-705 either directly, indirectly, diverted or reconsigned, except as provided for in WAC 16-470-715:~~

- ~~(1) Soil, humus, compost, and manure (except when commercially packaged);~~
- ~~(2) All plants with roots (except bareroot plants free from soil in amounts that could contain concealed Japanese beetle eggs, larvae or pupae);~~
- ~~(3) Grass sod;~~
- ~~(4) Plant crowns or roots for propagation (except when free from soil);~~
- ~~(5) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free of soil);~~
- ~~(6-)) regulated articles under the Japanese beetle quarantine:~~
 - (1) The upper eight inches of topsoil containing vegetative material from all properties including, but not limited to, residential, agricultural, and commercial properties (including construction sites);
 - (2) Humus and compost (except when produced commercially), and growing media (except when commercially packaged);
 - (3) Yard debris, meaning plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris;
 - (4) Plants for planting and propagation, except when dormant and bareroot and free from soil or growing media, including:
 - (a) All plants with roots;
 - (b) Plant crowns or roots;
 - (c) Bulbs;
 - (d) Corms;
 - (e) Tubers; and
 - (f) Rhizomes;
 - (5) Turfgrass (sod);
 - (6) Hop bines and unshucked corn ears harvested during the Japanese beetle adult flight season (May 15th through October 15th);
 - (7) Cut flowers for decorative purposes; and
 - (8) Any other plant, plant part, article, or means of conveyance when it is determined by the director to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-710, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-710, filed 7/16/90, effective 8/16/90.]

AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-715 Conditions governing the movement of regulated articles into Washington state from external quarantine areas. Regulated articles are prohibited entry into this state from a state or other area under quarantine listed in WAC 16-470-705(1), either directly, indirectly, diverted or reconsigned, except as provided for below.

(1) Prior notification is required. Persons shipping regulated articles as specified in WAC 16-470-710 into this state from areas ((under)) within the external quarantine must notify the department's plant services program by sending via ((telex)) email to nursery@agr.wa.gov or other method approved by the department, a copy of the applicable phytosanitary certificate as described in subsection (2) of this section for each shipment. The phytosanitary certificate must state the nature and quantity of the shipment, (~~its expected date of arrival at destination,~~) the name of the intended receiver, and the destination. The person to whom the commodities are shipped must hold the shipment until it is inspected and released by the department.

(2) Each shipment of regulated articles must be accompanied by a phytosanitary certificate from the state of origin certifying that the commodity, soil, or means of conveyance is treated with methods and procedures approved and prescribed by the director. Approved methods and procedures include those specified in the National Plant Board U.S. Domestic Japanese Beetle Harmonization Plan Appendix 1. Shipment to Category 1 States, as amended June 20, 2016. A copy of this plan can be accessed at <https://agr.wa.gov/beetles>.

(3) Privately owned houseplants grown indoors may be allowed entry into this state if a department official inspects the plants and determines that they are free from Japanese beetle.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-715, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-715, filed 7/16/90, effective 8/16/90.]

NEW SECTION

WAC 16-470-717 Conditions governing the movement of regulated articles from internal quarantined areas. Regulated articles within the state of Washington quarantined areas are prohibited from moving outside the quarantined area (from all properties, including commercial and private properties), except as provided for below:

(1) The upper eight inches of topsoil containing vegetative material from all properties; humus and compost (except when produced commercially), and growing media (except when commercially packaged), may be allowed to move from the quarantine area if they are first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) Other treatments determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(2) Yard debris may be allowed to move from the quarantine area if it is first treated by one of the following methods. Treatments must be monitored by the department for compliance.

(a) Steam heated to a temperature of 140 degrees Fahrenheit for one hour, to kill all life stages of Japanese beetle;

(b) When consisting solely of woody materials containing no soil, yard debris may be chipped to a screen size of one inch in two dimensions or smaller during the Japanese beetle adult flight season (May 15th through October 15th). Woody material containing no soil can be moved outside of the Japanese beetle adult flight season without chipping;

(c) Another treatment determined to be effective at eradicating Japanese beetle and approved in writing by the director.

(3) Plants for planting and propagation (except when dormant and bareroot and free from soil or growing media), all plants with roots, plant crowns or roots, bulbs, corms, tubers and rhizomes, and turf-grass (sod) may be allowed to move from the quarantine area if each shipment complies with one of the treatment or inspection requirements detailed under (a) through (f) of this subsection. Before the shipment moves outside the quarantined area, the shipment must be approved by the department. Approval will be documented by the issuance of a certificate of treatment or inspection when the department determines that the shipment is in compliance with the treatment or inspection requirements. The certificate must accompany the shipment while the shipment is in transit. Treated plants must be safeguarded from reinfestation prior to shipping. Plants shipped dormant and bareroot with no soil or growing media attached are exempt from these requirements, and should be identified as bareroot on shipping documents.

(a) Production in an approved Japanese beetle free greenhouse/screenhouse. All the following criteria apply to be approved as a Japanese beetle free greenhouse/screenhouse. All media must be sterilized and free of soil. All planting stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period (May 15th through October 15th). During the adult flight period, the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot enter. Such security measures must be approved by the department. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by the department for the presence of all life stages of Japanese beetle and must be specifically approved as a secure area. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed, and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the department as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse and were grown in sterile, soilless media."

(b) Production during a pest free window. The entire rooted plant production cycle (planting, growth, harvest, and shipping) will be completed within a pest free window (October 16th through May 14th), in clean containers with sterilized and soilless growing medium, and shipment will occur outside the adult Japanese beetle flight period

(May 15th through October 15th). The accompanying phytosanitary certificate shall bear the following additional declaration: "These plants were produced outside the Japanese beetle flight season and were grown in sterile, soilless media."

(c) Application of approved regulatory treatments. All treatments will be performed under direct supervision of the department or under a compliance agreement. Treatments and procedures under a compliance agreement will be monitored throughout the season. State phytosanitary certificates listing and verifying the treatment used must accompany the shipment. Note that not all treatments or methods approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for use within Washington state. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants are in soilless media and were treated to control *Popillia japonica* according to the criteria for shipment to Category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Washington state's Japanese beetle quarantine."

(d) Dip treatment - Not an approved treatment.

(e) Drench treatments - Container plants only. Not approved for ornamental grasses or sedges. Not approved for field potted plants. Potting media used must be sterile and soilless, containers must be clean. Only containerized nursery stock with rootballs 12 inches in diameter or smaller and free from field soil are eligible. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season, they must be retreated with an approved insecticide. Chemicals approved for drench treatments of container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(f) Media (granule) incorporation - Container plants only. Not approved for ornamental grasses or sedges. Only containerized nursery stock with rootballs 12 inches in diameter or smaller, planted in approved growing media, and free from field soil are eligible. Plants grown in field soil and then potted into soilless container substrates are not eligible for certification using this protocol, unless all field soil is removed from the roots so plants are bareroot at the time of potting. All pesticides used for media incorporation must be mixed thoroughly into the media before potting and plants should be watered at least two times following media incorporation before shipment can begin. Approved growing media used must be free from soil and consist of synthetic or other substances (other than soil) used singly or in combinations. Examples of approved growing media include conifer bark, hardwood bark, expanded or baked clay pellets, expanded polystyrene beads, floral foam, ground coconut husk, ground cocoa pods, ground coffee hulls, ground rice husk, peat, perlite, pumice, recycled paper, rock wool, sawdust, sphagnum, styrofoam, synthetic sponge, vermiculite, and volcanic ash or cinder. The media shall contain only substances that were not used previously for growing plants or other agricultural purposes. It must be free of plant pests, sand, and related matter, and safeguarded in such a manner as to prevent the introduction of all life stages of Japanese beetle to the media. The granules must be incorporated into the media before potting. Plants being stepped up into treated potting media must first have undergone an approved drench treatment to eliminate any untreated volume of potting medium. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to

be exposed to a second flight season, they must be repotted with a granular incorporated mix or retreated using one of the approved drench treatments. Chemicals approved for media (granule) incorporation for container plants under this protocol can be found in the Japanese Beetle National Harmonization Plan for shipping to a Category 1 state, and must be labeled for use in Washington state.

(4) Hop vines and unshucked corn ears: Fields where hops or corn (intended to be shipped unshucked) are planted must be trapped and monitored by the department and found free of Japanese beetle for the entire adult flight period (May 15th through October 15th), or from the date of planting up to the date of harvest if both dates are within the flight period. Fields that are not sufficiently trapped will not be considered free from Japanese beetle. If the field is found free of Japanese beetle by the department, vines and unshucked corn ears may be moved outside the quarantined area. If the department determines there is evidence of Japanese beetle presence, vines and unshucked corn ears must be treated prior to harvest or movement by a method approved by the director in advance. All shipments of hop vines and unshucked corn ears to areas outside the quarantined area must be accompanied by a compliance document issued by the department stating the field of origin and destination addresses. If a shipment is found to contain Japanese beetles, any further shipments from that field must be in vehicles sufficiently closed/covered to prevent reinfestation after treatment.

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AMENDATORY SECTION (Amending WSR 00-23-098, filed 11/21/00, effective 12/22/00)

WAC 16-470-720 ((Special permits-)) Compliance agreements. The director may issue ((special permits)) compliance agreements as defined in RCW 15.13.250, admitting regulated articles specified in WAC 16-470-710, from areas within the external or internal quarantine, that are not otherwise eligible for entry or movement from the area under quarantine ((, subject to)). Compliance agreements will include conditions and provisions which the director may prescribe to prevent the introduction, escape, or spread of Japanese beetle.

[Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-720, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-720, filed 7/16/90, effective 8/16/90.]