

**TITLE ONE OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF
THE STATE OF NEW YORK (1 NYCRR)**

**PART 139
CONTROL OF THE ASIAN LONG HORNED BEETLE**

Section

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Section 139.1. Definitions

For the purpose of this Part, the following words, names and terms shall be construed respectively, to mean:

(a) *Asian Long Horned Beetle*. The insect known as the Asian Long Horned Beetle, *Anoplophora glabripennis*, in any stage of development.

(b) *Infestation*. This term refers to the presence of the Asian Long Horned Beetle in any life stage or as determined by evidence of activity of one or more of the life stages.

(c) *Regulated area*. The quarantined area to which this Part applies.

(d) *Inspector*. An inspector of the New York State Department of Agriculture and Markets, or of the United States Department of Agriculture, when authorized to act in that capacity.

(e) *Moved; movement*. Shipped, offered for shipment to a common carrier received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved from the regulated area into or through any nonregulated portion of the State.

(f) *Certificate*. A valid form certifying the eligibility of products for intrastate movement under the requirements of this Part.

(g) *Limited permit*. A valid form authorizing the restricted movement of regulated articles from a regulated area to a specified destination for specified processing, handling or utilization.

(h) *Compliance agreement*. An approved document, executed by persons or firms, covering the restricted movement, processing, handling or utilization of regulated articles not eligible for certification for intrastate movement.

Section 139.2. Regulated area

(a) That area in the boroughs of Brooklyn, and Queens in the City of New York that is bounded by a line beginning at the point where the Robert F. Kennedy / Tri-borough Bridge intersects with the Queens shoreline; then north and east along the Queens shoreline to its intersection with the City of New York/Nassau County line; then southeast along the City of New York/Nassau County line to its intersection with the Grand Central Parkway; then west on the Grand Central Parkway to the Jackie Robinson Parkway; then west on the Jackie Robinson Parkway to Park Lane; then south on Park Lane to Park Lane South; then south and west on Park Lane South to 112th Street; then south on 112th Street to Atlantic Avenue; then west on Atlantic Avenue to 106th Street; then south on 106th Street to Liberty Avenue; then west on Liberty Avenue to Euclid Avenue; then south on Euclid Avenue to Linden Boulevard; then west on Linden Boulevard to Caton Avenue; then west on Caton Avenue to the Prospect Expressway; then north and west on the Prospect Expressway to the Gowanus Expressway; then north and west on the Gowanus Expressway to Hamilton Avenue and the Hugh L. Carey / Brooklyn Battery Tunnel; then north on Hamilton Avenue and the Hugh L. Carey / Brooklyn Battery Tunnel; then north along the Brooklyn and Queens shoreline of the East River to the point of beginning.

(b) That area in the Villages of Amityville, Babylon, Farmingdale, Lindenhurst, Massapequa Park and the hamlets of North Amityville, Bethpage, Old Bethpage, North Babylon, West Babylon, Copiague, Deer Park, East Farmingdale, South Farmingdale, North Lindenhurst, Melville, Massapequa, East Massapequa, North Massapequa, Wheatley Heights and Wyandanch; in the Towns of Babylon, Oyster Bay and Huntington; in the Counties of Nassau and Suffolk and bounded by a line beginning at a point where West Main Street intersects the west shoreline of Carll's River; then west along West Main Street to its intersection with Route 109; then northwest along Route 109 to its junction with Little East Neck Road, continuing northwest along Little East Neck Road to its junction with Belmont Avenue; then north along Belmont Avenue to its intersection with August Road; then southeast on August Road to its junction with Chuck Blvd.; then northeast along Chuck Blvd. to its intersection with Erlanger Blvd.; then east along Erlanger Blvd. to its intersection with Woods Road; then north along Woods Road to its intersection with Westview Avenue; then west along Westview Avenue to its intersection with W 24th Street; then north along W 24th Street to its intersection with Grand Blvd.; then east on Grand Blvd. to its intersection with W 23rd Street; then north along W 23rd Street continuing north over the Long Island Rail Road tracks and intersecting with Acorn Street; then west along Acorn Street to its junction with Adams Street; then following Adams Street north and then east to its junction with Somerset Place; then north on Somerset Place to its intersection with Nicholls Road; then west on Nicholls Road to its intersection with Venedia Drive; then north on Venedia Drive to its intersection with Straight Path; then southwest on Straight Path to its junction with Brown Blvd.; then north on Brown Blvd. to its intersection with Foothill Place; then west on Foothill Place to its intersection with Landscape Drive; then north on Landscape Drive to the point it becomes West Hills Place; then north on West Hills Place to the point it intersects with West Farm Drive; then west on West Farm Drive to its intersection with Bagatelle Road; then north along Bagatelle Road to its intersection with the south service road of the Long Island Expressway, following the south service road of the Long Island Expressway west to its intersection with Round Swamp Road; then south on Round Swamp Road to its junction with Quaker Meeting House Road; then southwest on Quaker Meeting House Road until it intersects with Merrits Road; then west on Merrits Road until the point it becomes Central Avenue; continuing west on Central Avenue until it intersects with the Bethpage Parkway; then south on the Bethpage Parkway until its intersection with (Route 24) Hempstead Turnpike; then west along Hempstead Turnpike to its intersection with Hemlock Drive; then south along Hemlock Drive

to its intersection with Cheryl Lane North; then east and south along Cheryl Lane North to its intersection with Boundary Avenue; then east on Boundary Avenue to its intersection with North Broadway; then south on North Broadway and Broadway to its junction with Hicksville Road; then south along Hicksville Road to the point it becomes Division Avenue continuing south along Division Avenue to its intersection with South Oyster Bay; then east along the shoreline to Carll's River, then north along the west shoreline of Carll's River to the point of beginning.

Section 139.3. Articles under regulation

(a) *Prohibited movement.* The intrastate movement of living Asian Long Horned Beetles in any stage of development, whether moved independent of or in connection with any other article, is prohibited, except as provided in section 139.9 of this Part.

(b) *Regulated movement.* The following articles shall not be removed from a quarantined area except under a limited permit or unless accompanied by a certificate indicating freedom from infestation:

(1) Firewood (all hardwood species) and all host material living, dead, cut or fallen, inclusive of nursery stock, logs, green lumber, stumps, roots, branches and debris of a half inch or more in diameter of the following genera: Acer (Maple); Aesculus (Horse Chestnut); Albizia (Silk Tree or Mimosa); Betula (Birch); Cercidiphyllum japonicum (Katsura); Fraxinus (Ash); Koelreuteria (Goldenrain tree); Platanus (Plane Tree, Sycamore); Populus (Poplar); Salix (Willow); Sorbus (Mountain Ash); and Ulmus (Elm) are regulated articles.

(2) Any other commodity or article when found on inspection to be infested with, or show evidence of, the Asian Long Horned Beetle in any stage of development.

Section 139.4. Conditions governing the intrastate movement of regulated articles

(a) Movement from regulated area. Unless exempted by administrative instructions of the Commissioner of Agriculture and Markets of the State of New York, regulated articles shall not be moved intrastate from the regulated area to or through any point outside thereof unless accompanied by a valid certificate or limited permit issued by an inspector, authorizing such movement.

Section 139.5. Conditions governing the issuance of certificates and permits

(a) Certificates may be issued for the intrastate movement of regulated articles under one or more of the following conditions:

(1) when they have been inspected and found apparently free from infestation;

(2) when they have been treated, fumigated, or processed by approved methods; or

(3) when they have been grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, no infestation would be transmitted thereby: provided, that subsequent to certification, the regulated articles will be loaded, handled, and shipped under such protection and safeguards against reinfestation as are required by the inspector.

(b) *Limited permits.* Limited permits may be issued for the movement of noncertified regulated articles to specified destinations for specified processing, handling, or utilization.

Persons shipping, transporting, or receiving such articles may be required to enter into written compliance agreements to maintain such sanitation safeguards against the establishment and spread of infestation and to comply with such conditions as to the maintenance of identity, handling, processing, or subsequent movement of regulated products and the cleaning of cars, trucks and other vehicles used in the transportation of such articles, as may be required by the inspector. Failure to comply with conditions of the agreement will result in its cancellation.

(c) *Cancellation of certificates or limited permits.* Certificates or limited permits issued under these regulations may be withdrawn or canceled by the inspector and further certification refused whenever in his or her judgment the further use of such certificates or permits might result in the dissemination of infestation.

Section 139.6. Inspection and disposition of shipments

Any car or other conveyance, any package or other container, and any article or thing to be moved, which is moving, or which has been moved intrastate from the regulated area, which contains, or which the inspector has probable cause to believe may contain, infestations of the Asian Long Horned Beetle, or articles or things regulated under this quarantine, may be examined by an inspector at any time or place. When articles or things are found to be moving or to have been moved intrastate in violation of these regulations, the inspector may take such action as he deems necessary to eliminate the danger of dissemination of the Asian Longhorned Beetle. If found to be infested, such articles or things must be freed of infestation without cost to the State except that for inspection and supervision.

139.7. Assembly of regulated articles for inspection

(a) Persons intending to move intrastate any of the articles covered by these regulations shall make application for certification as far in advance as possible, and will be required to prepare and assemble materials at such points and in such manner as the inspector shall designate, so that thorough inspection may be made or approved treatments applied. Articles to be inspected as a basis for certification must be free from matter which makes inspection impracticable.

(b) The New York State Department of Agriculture will not be responsible for any cost incident to inspection, treatment, or certification other than the services of the inspector.

Section 139.8. Marking requirements

Every container of regulated articles intended for intrastate movement shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a valid certificate (or limited permit) issued in compliance with these regulations: provided, that:

(a) For lot freight shipments, other than by road vehicle, one certificate may be attached to one of the containers and another to the waybill; and for carlot freight or express shipment, either in containers or in bulk, a certificate need be attached to the waybill only and a placard to the outside of the car, showing the number of the certificate accompanying the waybill; and

(b) for movement by road vehicle, the certificate shall accompany the vehicle and be surrendered to consignee upon delivery of shipment.

Section 139.9. Shipments for experimental and scientific purposes

Regulated articles may be moved intrastate for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the New York State Department of Agriculture and Markets. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag issued by the New York State Department of Agriculture and Markets showing compliance with such conditions.

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