

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48A - PLANT PROTECTION

SECTION .0100 - RULES AND REGULATIONS ADOPTED BY REFERENCE

02 NCAC 48A .0101 PESTICIDE USAGE: NORTH CAROLINA STATE UNIVERSITY

The Plant Industry Division, (PID), North Carolina Department of Agriculture (NCDA) adopts by reference the "North Carolina Agricultural Chemicals Manual" as published by North Carolina State University, Division of Continuing Education, Raleigh, North Carolina and effective January, 1976, as revised January, 1984. The Manual is available from North Carolina State University.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0102 PESTICIDE USAGE: ENVIRONMENTAL PROTECTION AGENCY

The PID of the NCDA adopts by reference the "Compendium of Registered Pesticides" as published by the Environmental Protection Agency and effective August 15, 1972.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0103 FEDERAL PLANT PEST QUARANTINES AND LAWS

The PID of the NCDA adopts by reference the "Quarantines and Basic Laws Manual" as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs (USDA-APHIS-PPQ) and effective May 31, 1965.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0104 APPROVED PESTICIDE TREATMENTS

The PID of the NCDA adopts by reference the "Treatment Procedures Manuals" as published by the USDA-APHIS-PPQ and revised December 5, 1969.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
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02 NCAC 48A .0105 CONTROL PROCEDURES FOR PLANT PESTS

The PID of the NCDA adopts by reference the "Control Manual" as published by the USDA-APHIS-PPQ as revised August, 1982.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0106 REGULATORY PROCEDURES

The PID of the NCDA adopts by reference the "Regulatory Guidelines" as published by the USDA-APHIS-PPQ and revised August, 1979.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0107 SURVEY PROCEDURES FOR PLANT PESTS

The PID of the NCDA adopts by reference the "Domestic Survey Manuals No. 1 and No. 2" as published by the USDA-APHIS-PPQ as revised May, 1968 and February, 1967 respectively.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0108 PLANT PEST LAWS AND REGULATIONS IN OTHER STATES

The PID of the NCDA adopts by reference the "Summary of State Regulations" as published by the USDA-APHIS-PPQ as revised January 2, 1976.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0109 MOVEMENT OF REGULATED COMMODITIES

The PID of the NCDA adopts by reference the "Regulatory Shipping Points Guide" as published by the USDA-APHIS-PPQ and effective April 18, 1973, as revised October, 1982.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0110 IMPORT REQUIREMENTS OF OTHER COUNTRIES

The PID of the NCDA adopts by reference the "Export Certification Manual" as published by the USDA-APHIS-PPQ and effective October, 1975, as revised July 22, 1983.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0111 DOMESTIC PROGRAM MANUALS

The PID of the NCDA adopts by reference the "Domestic Program Manuals" as published by the USDA-APHIS-PPQ and effective January, 1981.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0112 AVAILABILITY OF REFERENCES ADOPTED

The USDA documents and manuals adopted by reference in this Section are available from USDA-APHIS-PPQ, 6505 Belcrest Road Hyattsville, Maryland 20782.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; 150B-14;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24,
2019.

SECTION .0200 - HONEY AND BEE INDUSTRY

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History Note: Authority G.S. 106-634 through 106-644;
Eff. January 1, 1985;
Amended Eff. July 1, 1998; June 1, 1993; December 1, 1988; October 1, 1987; April 1, 1985;
Repealed Eff. January 1, 2011.

02 NCAC 48A .0212 COLONIES OF BEES FOR SALE IN NORTH CAROLINA

History Note: Authority G.S. 106-634 through 106-644;
Eff. January 1, 1985;
Repealed Eff. June 1, 1993.

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History Note: Authority G.S. 106-634 through 106-644;
Eff. January 1, 1985;
Amended Eff. July 1, 1998; June 1, 1993; December 1, 1988; April 1, 1985;
Repealed Eff. January 1, 2011.

02 NCAC 48A .0224 POISONING OF HONEYBEES BY PESTICIDES

History Note: Authority G.S. 106-634 through 106-644;
Eff. January 1, 1985;
Repealed Eff. June 1, 1993.

02 NCAC 48A .0225	REGISTRATION OF HONEYBEE COLONIES
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02 NCAC 48A .0227	FORM BS-1
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History Note: Authority G.S. 106-634 through 106-644;
 Eff. January 1, 1985;
 Repealed Eff. January 1, 2011.

02 NCAC 48A .0238 AFRICANIZED BEE/VARROA MITE CLEAN UP AREA

History Note: Authority G.S. 106-634 through 106-644;
 Eff. December 1, 1988;
 Repealed Eff. January 1, 2011.

02 NCAC 48A .0239	PERMIT TO SELL BEES
02 NCAC 48A .0240	FORM BS-11
02 NCAC 48A .0241	FORM BS-12

History Note: Authority G.S. 106-638;;
 Eff. May 1, 1992;
 Repealed Eff. January 1, 2011.

02 NCAC 48A .0242 DEFINITIONS

For the purpose of this Section:

- (1) Compliance Agreement means an agreement between the State Apiarist and a beekeeper wherein the beekeeper agrees to follow the practices and procedures set forth in 02 NCAC 48A .0248 and 02 NCAC 48A .0252 as a prerequisite for authorization to ship bees or apiary equipment into or within North Carolina.
- (2) Inspector means a person designated by the Commissioner to be responsible for performing inspections, services and enforcing the bee and honey statutes and rules of North Carolina.
- (3) Nuclei means colonies of honeybees on one to four brood combs, usually with queen, eggs and developing bees, in a hive or box suitable for shipping or mailing.
- (4) Package Bee Producer means a beekeeper who is in the business of producing worker bees for sale and shipment without comb or honey in screened cages or packages suitable for shipping or mailing.
- (5) Queen Breeder means a beekeeper who is in the business of producing queen bees for sale and shipment without comb or honey in cages suitable for shipping or mailing.
- (6) State Apiarist means the person designated by the Commissioner to be responsible for administering and enforcing the North Carolina bee and honey statutes and rules.
- (7) Uniform Health Certificate means a Uniform Health Certificate agreed on by several states.

History Note: Authority G.S. 106-638;
 Eff. January 1, 2011;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0243 INSPECTIONS

- (a) Apiary inspectors shall inspect bees at the request of a beekeeper on a first-come, first-serve basis compatible with the weather and the schedule of the inspector.
- (b) Apiary inspectors shall conduct random survey inspections to evaluate bee disease conditions in North Carolina and other inspections as called for in the rules in this Section.
- (c) Apiary inspectors shall inspect for diseases by sampling and submission of the sample for laboratory diagnosis.
- (d) To the extent of available resources, laboratory diagnosis of bee diseases shall be made on samples sent in to the State Apiarist by beekeepers.

History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0244 THE INSPECTION PROCESS

- (a) Apiary inspectors shall inspect colonies of bees by opening the hive and observing the brood (eggs, larvae and developing bees) and adult bees. Diagnosis of the common bee diseases shall be made based on characters listed in Table 1, "Agricultural Extension Beekeeping Note No. 2.01," January 2007, published by North Carolina State University's Cooperative Extension Service, including subsequent amendments and editions. A copy of this document is available for inspection at the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division office located at 216 West Jones Street, Raleigh, NC 27603. It may also be obtained online at <http://www.cals.ncsu.edu/entomology/apiculture/PDF%20files/2.01.pdf>.
- (b) If the beekeeper desires a confirmation of a diagnosis given by an inspector, the apiary inspector shall send a sample of the disease to the Apicultural Laboratory, N.C. State University or the United States Department of Agriculture Bioenvironmental Laboratory, Beltsville, Maryland, for a laboratory diagnosis.
- (c) Destruction of a beehive shall be performed in accordance with Rule .0254.

History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0245 INTERSTATE SHIPMENT

- (a) Apiary inspectors shall inspect North Carolina bees within 14 calendar days of a beekeeper's requesting such an inspection at a time of year when there is brood rearing activity in a majority of the colonies as a prerequisite for interstate shipment of bees.
- (b) Apiary inspectors shall issue health certificates in accordance with the provisions of the rules in this Section.
- (c) The State Apiarist shall charge the additional costs of making inspections when the beekeeper requests inspection within a specified time of less than 14 calendar days for his own convenience and there is not adequate time for normal routine scheduling of the inspection, pursuant to Paragraph (a) of this Rule.

History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0246 THE TRANSPORTATION OF BEES

The transportation or importation into North Carolina from any other state or country of bees of the superfamily Apoidea in any stage of development, the causal agents of their diseases or disorders, their pests, their products, nests or hives, and associated equipment are prohibited except under the following conditions:

- (1) All bees of the superfamily Apoidea except *Apis mellifera* and cross bred strains of *Apis mellifera* with other species of *Apis* that are naturalized in the United States shall be allowed entry into North Carolina only by scientific permit. Procedures for obtaining a scientific permit are:
 - (a) An application for a permit to move regulated articles shall be obtained from:
State Apiarist
Plant Industry Division
North Carolina Department of Agriculture and Consumer Services

1060 Mail Service Center
Raleigh, NC 27699-1060

This application shall be returned to the State Apiarist for processing;

- (b) Decisions of acceptance or rejection of applications for movement of regulated articles for scientific purposes shall be based on the following criteria:
 - (i) pest disease risk hazard;
 - (ii) safeguards against spread which can be applied;
 - (iii) amount of material involved;
 - (iv) biological conditions in the area in which the regulated article is to be moved;
 - (v) method of packaging and method of shipment to be employed; and
 - (vi) use for which the regulated articles are to be applied.
- (2) Bees of the species, *Apis mellifera* cross bred with other species of *Apis* that are naturalized in the United States and their equipment and products are allowed entry into North Carolina under the following conditions:
 - (a) Live adult bees in cages, without combs or foundation provisioned with "candy" or "syrup" made from sugar and boiled honey possessing a valid certificate of inspection shall be admitted when not from an area under quarantine;
 - (b) Bees on combs or foundation, nuclei, used hives, used combs and other used apiary equipment of any kind are allowed when issued a permit according to the provisions of the rules in this section;
 - (c) New or unused apiary equipment and products packed for nonbee consumption may be transported into North Carolina without restriction;
 - (d) Pollen shipped for bee food may be transported into North Carolina when an individual authorized by the law of the state of origin to inspect and certify pollen as free of bee disease has made such a determination;
 - (e) Nuclei of commercial beekeepers or a beekeeper who is not in the business of raising queens, package bees or nuclei for sale are allowed when issued a permit according to the provisions of the rules in this Section;
 - (f) Nuclei of queen breeders, package bee producers or nuclei producers must be accompanied by a valid certificate of apiary inspection issued by an official of the state of origin and marked with the North Carolina compliance agreement number. A compliance agreement may be made between the State Apiarist and those rearing bees in other states for sale as nuclei providing the shipper agrees to the conditions in the compliance agreement; and
 - (g) The transportation into North Carolina from any other state or country of bees on combs, used hive bodies, frames, combs and other apiary equipment is allowed into North Carolina when each shipment is accompanied by a valid permit issued by the State Apiarist.
- (3) Bees may be transported through North Carolina in interstate commerce to a destination outside North Carolina only under the following conditions:
 - (a) Hives must be securely covered at all times;
 - (b) Transporting vehicles must keep the bees enclosed in a refrigerated containment vehicle that maintains the bees at a constant temperature below 45 degrees Fahrenheit;
 - (c) Transporting vehicles must travel on and remain within one mile of an interstate highway; and
 - (d) The vehicle operator or other responsible person must report to the North Carolina Department of Agriculture and Consumer Services any accidental or intentional release of bees.
- (4) Bees may be transported freely within North Carolina except as restricted by quarantine, clean-up areas, or other rules in this Section.
- (5) Any colony or colonies of bees or used apiary equipment of any kind found to be moving or to have been moved into North Carolina in violation of the requirements of this Section is subject to confiscation destruction or such other disposition as shall be determined by the State Apiarist, or other authorized inspector.

History Note: Authority G.S. 106-638;

Eff. February 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0247 REQUIREMENTS FOR ISSUANCE OF PERMIT

(a) No permits for entry into North Carolina shall be issued until the following information has been filed with the State Apiarist:

- (1) A valid certificate of apiary inspection from an official of the state of origin, who is authorized by the state of origin, to conduct apiary inspections and equipment to the effect that said bees and equipment have been inspected within sixty days of the proposed date of entry into North Carolina and found apparently free from contagious and infectious diseases, and giving the number of colonies inspected, date of inspection, whether all of the bees owned by the owner of said bees were inspected and included in the certificate. Certificates not meeting the requirements of this Section regarding specific diseases inspected for and thoroughness of inspection may be rejected;
- (2) A statement from the owner of the bees and equipment giving the number of colonies of bees and amount of equipment to be brought into North Carolina, the proposed date of entry into the state, and where the bees and equipment will be located in the state; and
- (3) Permission from the owner of said bees for North Carolina inspectors to inspect at any time the bees and equipment while in North Carolina.

(b) A permit shall be granted for used beekeeping equipment without bees if:

- (1) The State Apiarist has received a statement from an official of the state of origin, who is authorized by the state of origin, to conduct apiary inspections that the bees on which the equipment was last used have been inspected and found free of American foulbrood or other dangerous diseases;
- (2) The equipment has been fumigated or otherwise sterilized in such a manner that in the opinion of the State Apiarist the equipment is free of infectious American foulbrood or other dangerous disease.

(c) The State Apiarist may require specified marking or other identification of used beekeeping equipment to avoid that equipment being comingled with new equipment as a prerequisite for granting a permit.

(d) The State Apiarist may require treatments or fumigations for diseases and disorders of special concern as identified in this section as a prerequisite for granting a permit from areas under quarantine.

(e) The proposed location of imported bees and bee equipment in North Carolina shall be approved by the State Apiarist in advance of issuance of a permit. In determining whether a proposed location will be approved, the State Apiarist shall consider the following criteria in determining whether the requested movement of bees or equipment could create or lead to overcrowding of bees or other detrimental conditions at the proposed site:

- (1) The bee population or density in the proposed entry area and proximity to other bees with respect to creation of conditions favoring honeybee stress diseases or increased disease or pest spread hazard;
- (2) The number of colonies for which the entry permit is requested;
- (3) The adequacy of the honey pasture in the proposed entry area;
- (4) The effect on incorporated cities in North Carolina or any local bee ordinance;
- (5) The effect on honeybee research being conducted in North Carolina;
- (6) The effect on honeybee disease quarantine or clean-up areas in North Carolina;
- (7) Any previous locations or enforcement histories in North Carolina;
- (8) Any unusual or mitigating circumstances; and
- (9) The timing of the request.

History Note: Authority G.S. 106-638;

Eff. January 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0248 LOCATION OF BEES

(a) The statement as specified in 02 NCAC 48A .0247(e) regarding where bees are to be located in North Carolina must be in sufficient detail to enable location of the bees.

(b) Honeybees requiring an entry permit which are moved into North Carolina from other states or countries shall be placed under post entry quarantine for a period of one year after entry. These bees shall not be moved from the initial location to other locations in North Carolina while under quarantine.

*History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0249 INSPECTION OF NUCLEI AND QUEEN BREEDING APIARIES

- (a) No one shall sell queen bees, package bees or nuclei in North Carolina without having the bees from which the above are produced, inspected and found apparently disease free by the State Apiarist.
- (b) All nuclei, package bees and queen bees produced in North Carolina must have a North Carolina health certificate attached to each shipment from the producer's apiary. The health certificate shall be issued in accordance with the rules in this Section.
- (c) Beekeepers shall not sell nuclei, package bees or queens produced in other states from North Carolina locations without having a North Carolina health certificate on all the bees they own in North Carolina issued in accordance with the rules in this Section.
- (d) If the inspector has reason to believe that bees or equipment offered for sale are symptomless carriers of any disease or disorder listed in the rules in this Section he shall forbid movement or sale of the bees and equipment.
- (e) A protective quarantine area of a two-mile radius shall exist around the production apiaries of nuclei, queen bee or package bee producers in North Carolina who are in compliance with this Section. No one shall move bees into the quarantined area without a health certificate issued by the State Apiarist based on an inspection within 30 days prior to movement.
- (f) All persons who sell, ship, or deliver queen bees, package bees or nuclei in North Carolina must keep records of their acquisitions, sales, shipments or deliveries. These records must show contents of shipments; where sold, shipped, or delivered; to whom sold, shipped or delivered; and the date sold, shipped or delivered. These records must be kept for three years after the transaction and must be made available to any North Carolina Department of Agriculture apiary inspector on request. All persons who sell, ship, or deliver either queen bees, package bees, or nuclei in North Carolina must obtain a permit from the Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services.

*History Note: Authority G.S. 106-638; 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0250 HEALTH CERTIFICATES

The State Apiarist shall grant health certificates as follows:

- (1) For queen breeders, package bee shippers, and nuclei producers in North Carolina:
 - (a) The beekeeper shall have an inspector inspect all of the bees owned or operated by the beekeeper at least one time a year at a time the bees are actively rearing brood;
 - (b) All frames of brood shall be inspected in each hive;
 - (c) If no disease is found, the State Apiarist shall issue a North Carolina health certificate dated to expire 12 months after issuance;
 - (d) If disease is found the disease shall be suppressed by destruction of hives or eradicated by fumigation;
 - (e) The inspector must wait 30 days after the disease has been eradicated or suppressed before performing a re-inspection of remaining hives for health certification purposes; and
- (2) For certification of bees to be moved from North Carolina:
 - (a) The inspector shall inspect the bees according to the entry requirements of the destination state or country;
 - (b) A uniform health certificate shall be issued if the disease freedom requirements of the destination state are met;

- (c) The State Apiarist may make any additional declarations for which he has supporting data when such declarations are required by the destination state; and
- (d) The inspector may mark or stamp hives that are disease-free if such is required by the destination state.

*History Note: Authority G.S. 106-638; 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0251 COMPLIANCE AGREEMENT

- (a) A compliance agreement may be made between the State Apiarist and those rearing bees for sale provided the shipper agrees to:
 - (1) Notify the State Apiarist of bees shipped into or within North Carolina, the date shipped, and the destination;
 - (2) Not use chemotherapy to mask the presence of disease;
 - (3) Not exchange used frames in the operation;
 - (4) Have all of his bees inspected twice a year when brood is present, and at intervals no less than 90 days, and send the State Apiarist copies of health certification issued; and
 - (5) Meet all other conditions provided for by the rules in this Section.
- (b) If conditions within the state of origin warrant or violations of the compliance agreement or other health standards occur, the State Apiarist shall discontinue the issuance of compliance agreements and revoke any outstanding agreements.
- (c) The compliance agreement expires December 31 of each year unless revoked by the State Apiarist prior to that date.

*History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0252 EXPOSURE OF DISEASED MATERIALS

- (a) No one shall knowingly expose bees, bee products, or equipment which is known to be infested with a contagious and infectious bee disease in such a manner as to be accessible to robber bees.
- (b) When a colony of bees dies as a result of disease, the beekeeper shall seal or close the colony to prevent robber bees from carrying disease to healthy colonies.
- (c) If apiary products or equipment that are infested with infectious disease are mixed with uninfected products or equipment, the entire lot is considered infested.

*History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0253 INFESTED APIARY MATERIAL LIABLE TO DESTRUCTION

- (a) Anyone possessing bees, apiary products, or equipment that is infested or infected with infectious and contagious bee disease or disorders must disinfect or sterilize such bees, apiary products, or equipment in such a manner as to prevent propagation or spread hazard of the disease.
- (b) If bees, equipment, or apiary products that are infested or infected with infectious and contagious bee diseases or disorders are not disinfected or sterilized the inspector shall take measures to eradicate such bee diseases or disorders at the expense of the beekeeper.
- (c) If sterilization treatments or fumigations are not available or acceptable to the beekeeper, bees, apiary products, or equipment that are infested with contagious and infectious bee diseases or disorders shall be destroyed by the State Apiarist or inspector.

History Note: Authority G.S. 106-639;

Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0254 DESTRUCTION OF BEES: APIARY PRODUCTS OR EQUIPMENT

- (a) The inspector shall consider all factors and make the determination as to whether the bees, apiary products, or equipment can be safely sterilized or disinfected.
- (b) This Rule shall be enforced for diseases as listed in this Section.
- (c) The inspector shall consider all treatments approved by the United States Environmental Protection Agency, including drug therapy and fumigation, in making the safe sterilization determination.
- (d) The destruction or disposition of bees and equipment shall be conducted under the supervision of the inspector.
- (e) The destruction of a beehive shall be performed as is described in "Agricultural Extension Beekeeping Note No. 2.01," January 2007, published by North Carolina State University's Cooperative Extension Service, including subsequent amendments and editions, or in "Beekeeping Basics," Mid-Atlantic Apiculture Research and Extension Consortium, 2004, including subsequent amendments and editions. Copies of these documents are available for inspection at the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division office located at 216 West Jones Street, Raleigh, NC 27603. They may also be obtained online at <http://www.cals.ncsu.edu/entomology/apiculture/PDF%20files/2.01.pdf> and <http://pubs.cas.psu.edu/FreePubs/pdfs/agrs93.pdf>.

History Note: Authority G.S. 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0255 FUMIGATION OR STERILIZATION OF APIARY EQUIPMENT

- (a) The State Apiarist shall allow fumigation or sterilization of diseased bee equipment in lieu of destruction when fumigation or sterilization is sufficient to eliminate the disease or disorder.
- (b) The State Apiarist shall, at the request of the beekeeper, provide and operate the chamber for fumigation of diseased bee equipment in lieu of destruction, when fumigation or sterilization is sufficient to eliminate the disease or disorder. When the beekeeper makes such a request, the beekeeper shall pay for the cost of the fumigant.
- (c) The State Apiarist shall dispose of honey, wax, or bee equipment abandoned in connection with the fumigation program in a manner such that there is no disease spread hazard.

History Note: Authority G.S. 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0256 CLEAN-UP AREAS

- (a) When in the opinion of the Commissioner action is necessary to prevent or check the spread of bee diseases or disorders he may designate areas or counties as "clean" or under a "clean-up campaign" for designated diseases or disorders and prohibit the movement of bees and equipment into or from these areas, except when they have been inspected within 60 days of the time they are to be moved, and found apparently free of the designated diseases or disorders, and a certificate of inspection issued.
- (b) The following types of clean-up areas may be designated and the diseases or disorders regulated in the areas:
 - (1) areas where bees are moved to or concentrated at certain times of the year such as apple and blueberry pollinating areas;
 - (2) areas with a concentration of bee disease;
 - (3) areas around queen or package bee rearing sites;
 - (4) areas around an infestation of a disease new to the state;
 - (5) any other area where disease clean-up is needed at the time.
- (c) Before designating or removing a clean-up area, a public hearing must be held before the Board of Agriculture.
- (d) The diseases or disorders regulated in the clean-up areas are dependent on the type of clean-up area and must be designated by the Commissioner.

(e) Any bees or beekeeping equipment moved in violation of this Rule shall be subject to confiscation and destruction.

*History Note: Authority G.S. 106-389 through 106-640;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0257 DISEASED APIARIES QUARANTINED

(a) Any apiary or colony of bees infected with contagious and infectious diseases, disorders, or conditions prescribed in the rules in this Section shall be placed under quarantine by the State Apiarist or inspector. Such quarantine becomes effective upon a verbal or written notice to the person in charge of the bees from the State Apiarist or inspector and remains in effect until the inspector has determined that the disease is eradicated or under control to his satisfaction.

(b) The movement or transportation of any and all colonies of bees, apiary equipment, queen bees, nuclei, combs, or other diseased materials from a quarantined apiary or colony is prohibited.

(c) A quarantine zone shall exist within a radius of two miles around the diseased apiary or colony of bees. No bees may be moved from a quarantine zone until after they have been inspected and found to be apparently free from disease.

*History Note: Authority G.S. 106-638 through 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0258 EXTERIOR QUARANTINE

The Commissioner shall quarantine areas outside of North Carolina when he has reason to believe that a bee of the genus *Apis* other than *Apis mellifera* or a bee disease or disorder that is not established throughout North Carolina exists in that area and that importation of honeybees or beekeeping equipment present an introduction hazard to North Carolina beekeeping.

*History Note: Authority G.S. 106-640;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0259 DISEASES AND DISORDERS OF SPECIAL CONCERN

The following diseases, disorders, and conditions are of special concern to beekeeping in North Carolina. These are prescribed for special regulatory action as referenced in the rules in this Section:

- (1) American foulbrood disease, *Paenibacillus* larvae;
- (2) Chalkbrood disease, *Ascosphaera apis*;
- (3) Any bee disease or disorder which, in the opinion of and so declared by the Commissioner, constitutes a threat to the bee and honey industry in North Carolina;
- (4) Any bee of the genus *Apis* other than *Apis mellifera*;
- (5) Any bees, beekeeping equipment or products that have been moved or used in violation of North Carolina bee and honey statutes and rules;
- (6) Genetic material of exotic strains of bees;
- (7) Honeybee tracheal mite, *Acarapis woodi*, Rennie;
- (8) Africanized bee – Hybrids of *Apis mellifera scutellata*;
- (9) Varroa mite – *Varroa destructor*; and
- (10) Small Hive Beetle – *Aethina tumida*.

*History Note: Authority G.S. 106-640;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0260 CERTIFICATION OF POLLINATION CONDITIONS

At the request of either a beekeeper or a grower renting bees for pollination, and with knowledge of both parties, the State Apiarist shall inspect each colony for colony strength and condition of bees rented or provided for pollination, and shall make a certification of his or her findings available to both parties.

*History Note: Authority G.S. 106-636;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0261 ABANDONED BEES OR BEE EQUIPMENT

The State Apiarist, upon permission of the property owner or manager, may take possession and care for an apiary or honeybee colonies left untended on the property of another for a period of 12 months.

*History Note: Authority G.S. 106-639;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0262 REGISTRATION OF HONEYBEE COLONIES

(a) Beekeepers requesting notification of an applicator who applies pesticides by using aircraft in compliance with Federal Aviation Administration regulations under Title 14 CFR Part 137 shall register such a request in accordance with the provisions of this subsection.

(b) Registering agency. The Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services shall be responsible for the registration of honeybees and making registration information available to aerial applicators.

(c) Registration procedure:

- (1) Beekeepers desiring advance notification of pesticide application under these procedures shall register their apiaries with the registering agency. The registration period shall be from January 1 to December 31 of each year;
- (2) Beekeepers may register their bees at any time of the year but registration shall not be effective until the registration revisions have been distributed to aerial applicators;
- (3) The registration will expire on December 31 of each year and must be renewed each year;
- (4) The Plant Industry Division will distribute a list of registration revisions by U.S. mail on the first of March, July, and October to all aerial applicators licensed in North Carolina and the revisions will be effective on the fifth day of the month. When deemed necessary by the state apiarist due to pesticide use patterns, a special registration list may be distributed more frequently;
- (5) Registration must be on forms provided by the Plant Industry Division and are available from the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division, 1060 Mail Service Center, Raleigh, NC 27699-1060; Apiculturist, Entomology Department, NC State University, Campus Box 7613, Raleigh, NC 27696 and all agricultural extension offices. The names, addresses, and phone numbers of persons authorized to receive notification must be of people within North Carolina and of such nature that the aerial applicator or his representative can easily give notification of planned application of pesticide; an alternative notification procedure must be provided by beekeepers who are away from primary notification address for periods in excess of 24 hours. Beekeepers who cannot be contacted or notified of intent to spray for periods of time in excess of 24 hours are hereby declared not properly registered; and
- (6) A registration fee of ten dollars (\$10.00) must be paid for each registration.

*History Note: Authority G.S. 106-638;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0263 PERMIT TO SELL BEES

(a) The Plant Industry Division of the North Carolina Department of Agriculture and Consumer Services shall issue permits to individuals, corporations, or firms intending to sell honeybees in North Carolina.

(b) Permitting procedure:

- (1) Individuals, corporations, or firms desiring to sell bees in North Carolina shall apply annually for a permit. The permitting period is from January 1 to December 31 of each year. Permit applications must be on a form provided by the Plant Industry Division. Permit application forms are available from the following:
 - (A) North Carolina Department of Agriculture and Consumer Services, Plant Industry Division, 1060 Mail Service Center, Raleigh, NC 27699-1060; and
 - (B) available on-line at NCDA&CS, Plant Industry Division, Plant Protection website;
- (2) A permitting fee must be paid on an annual basis in accordance with the provisions of G.S. 106-639.1 and subsequent amendments;
- (3) Individuals, corporations, or firms may obtain a permit to sell bees at any time of year;
- (4) The permit shall expire on December 31 of each year and must be renewed each year;
- (5) All provisions of the N.C. Bee and Honey Act and the rules adopted thereunder must be met as a prerequisite to obtaining a permit to sell bees, including compliance with existing quarantines;
- (6) A permit to sell bees in North Carolina shall be denied or revoked if necessary to prevent the introduction or spread of bees or colonies with contagious or infectious diseases, disorders, or conditions deemed harmful to the North Carolina beekeeping industry;
- (7) A permit is non-transferable; and
- (8) A permit holder shall not sell bees owned by another person.

History Note: Authority G.S. 106-639.1;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0264 FORMS

Forms needed to implement the provisions of the rules in this Section shall be provided by the North Carolina Department of Agriculture and Consumer Services, Plant Protection Section as needed.

History Note: Authority G.S. 106-641;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0265 AFRICANIZED BEE/VARROA MITE CLEAN UP AREA

(a) To prevent introduction of the Africanized bee (hybrids of *Apis mellifera scutellata*) and the Varroa mite (*Varroa destructor*) into North Carolina through the ports at Morehead City and Wilmington, Africanized bee/Varroa mite clean up areas are hereby established at these ports.

(b) The clean up areas are the areas encompassed within a two mile radius with center at the western terminus of Morehead City-Beaufort Bridge on U.S. 70 in Morehead City, North Carolina and within a two mile radius with center at the western terminus of Shipyard Boulevard in Wilmington, North Carolina.

(c) These areas are hereby declared bee-free areas. No bees shall be kept or husbanded in these areas without permission of the State Apiarist. Apiary inspectors are authorized to take and destroy any bees found in these areas including bees on ships or in cargo. No one shall transport or ship bees into or from these areas unless they are part of a bee shipment through the ports. Any cargo containing bees shall not be removed from the area until declared bee-free by an Apiary Inspector. No one shall capture or take a swarm of bees from the area. Bees and their progeny taken from the area are subject to destruction without regard to whether they are Africanized or not.

History Note: Authority G.S. 106-639; 106-640;
Eff. January 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .0300 - EXTERIOR PESTS

02 NCAC 48A .0301 DEFINITIONS

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

- (1) Compliance Agreement. A written agreement between an individual or concern dealing in or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the establishment or dissemination of an exterior pest;
- (2) Exterior Agency. Any governmental unit having authority under the law to quarantine or regulate plant pests. Such units shall include the federal government agencies, states and foreign countries;
- (3) Exterior Pest. Any plant pest in any stage of development that is under quarantine or regulated by an exterior agency that is not known to be established or has recently been found established in North Carolina, or any plant pest not known to be under such regulation, but which available information indicates to be a potentially serious plant pest in North Carolina;
- (4) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine and regulations supplemental thereto;
- (5) Regulated Article. Any object, article, product, or commodity which meets one or more of the following criteria:
 - (a) Is designated as a regulated article by an exterior agency;
 - (b) Is found infested with an exterior pest;
 - (c) Is susceptible to infestation and has been exposed or which an inspector has reasonable ground to believe has been exposed to an exterior pest;
 - (d) Is an exterior pest;
 - (e) The Plant Pest Administrator has reasonable ground to believe to be infested with or transporting an exterior pest;
- (6) Exterior Pest Quarantine. Any exterior pest or exterior regulated article now or hereafter determined to be within the State of North Carolina is hereby placed under quarantine.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0302 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES

Regulated articles shall not be moved into, within or from North Carolina nor shall they be processed, planted or propagated except under conditions stipulated by the Commissioner of Agriculture or his agent. Such conditions shall be consistent with the quarantine requirements of the exterior agency and shall be designed to prevent establishment or dissemination of the pest in North Carolina. Regulated articles shall be accompanied by valid certificates or inspection tags issued by the exterior agency of origin when such certificates are required under the quarantine or regulations of such agency.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0303 COMPLIANCE AGREEMENT

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and dissemination and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0304 INSPECTION AND DISPOSAL

Any properly identified inspector is authorized to stop and inspect any person or means of conveyance moving into, within or from the State of North Carolina upon probable cause to believe that such means of conveyance or articles are regulated articles as defined in these Regulations and such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be in violation of these Regulations. Shippers or agents shall provide to the inspector information such as origin, ownership, destination, treatments or certifications received, quantity and any other information pertinent to establishing the degree of infestation of an actual or potential regulated article.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0305 EXEMPTIONS

The Plant Pest Administrator may exempt exterior pests from the provisions of this quarantine and regulations when he deems the potential of the pest not applicable to conditions in North Carolina or when enforcement of this quarantine and regulations is deemed not feasible under existing circumstances.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

SECTION .0400 - WHITE PINE BLISTER RUST

02 NCAC 48A .0401 CURRANT AND GOOSEBERRY PLANTS

(a) All wild and cultivated currant and gooseberry plants in North Carolina are hereby declared to be dangerous plants and are subject to destruction upon notice by the Commissioner of Agriculture or authorized agents wherever found.

(b) No person shall knowingly and willfully keep upon his or her premises any currant or gooseberry plant, or permit such plants to mature seed or otherwise multiply upon his or her land.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Readopted Eff. January 1, 2021.*

02 NCAC 48A .0402 INFECTED PINES

(a) All five-leafed pines infected with white pine blister rust in North Carolina are hereby declared to be dangerous plants and are subject to destruction upon notice by the Commissioner of Agriculture or authorized agents wherever found.

(b) No person shall knowingly and willfully keep upon his or her premises any five-leafed pines infected with white pine blister rust, or permit such plants to mature seed or otherwise multiply upon his or her land.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Readopted Eff. January 1, 2021.*

SECTION .0500 - WITCHWEED

02 NCAC 48A .0501 DEFINITIONS

For the purpose of this Section, the following shall apply:

- (1) Certificate. A document issued or authorized to be issued by an inspector to allow the movement of regulated articles to any destination;

- (2) Compliance Agreement. A written agreement between an individual, or concern engaged in growing, dealing in, or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of the witchweed;
- (3) Exempt Area. Any part of a regulated area which is exempt from these Regulations except where the soil is disturbed at a depth greater than 30 inches;
- (4) Exemptions. Conditions contained in these Regulations which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions;
- (5) Infestation. The presence of the witchweed or the existence of circumstances that make it reasonable to believe that witchweed is present;
- (6) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine and regulations;
- (7) Generally Infested Area. Any part of a regulated area not designated as an exempt or suppressive area;
- (8) Mechanized Cultivating Equipment and Mechanized Soil-Moving Equipment. Mechanized equipment used for cultivating purposes--e.g., turning or disc plows; or to move or transport soil--e.g., draglines, bulldozers, road scrapers and dump trucks;
- (9) Permit. A document issued or authorized to be issued by an inspector to allow the movement of noncertified regulated articles to a specified destination for particular handling, utilization, or processing, or for treatment;
- (10) Pest. The parasitic plant known as the witchweed (*Striga* spp.) in any stage of development;
- (11) Regulated Area. Any counties or parts of counties in the State of North Carolina listed or provided for in these Regulations;
- (12) Soil. Soil shall be considered that part of the upper layer of earth in which plants can grow (includes subsoil down to parent material);
- (13) Suppressive Area. That part of a regulated area where eradication of infestation is undertaken as an objective.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0502 REGULATED ARTICLES

The Plant Industry Division, Plant Protection Section, adopts by reference 7 CFR 301.80(b) entitled Regulated Articles, with the inclusion of the witchweed (*Striga* spp.) in any stage of development.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0503 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES

The following conditions govern the movement of regulated articles:

- (1) Certificate or Permit Required. Unless exempted in these Regulations a certificate or permit must accompany the movement of regulated articles from any regulated area into or through any point outside thereof. Regulated articles originating outside of a regulated area may be moved without a certificate or permit if the point of origin is clearly indicated on the shipping document accompanying the regulated articles provided, in the case of articles moved through a regulated area, the regulated articles are protected from infestation, while within regulated areas, to the satisfaction of an inspector.
- (2) Issuance of Permits. Permits may be issued by inspectors to allow the movement of noncertified regulated articles to locations outside of the regulated areas for particular handling, utilization, processing, or for treatment in accordance with approved procedures, provided the inspector has determined that such movement will not result in the spread of witchweed.

- (3) Federal certificates or permits can be used on all regulated articles interchangeably with North Carolina Department of Agriculture Plant Industry Division Certificates.
- (4) The Plant Industry Division, Plant Protection Section, adopts by reference 7 CFR 301.80-7 and 7 CFR 301.80-4(a) entitled Attachment of Certificates and Issuance of Certificates respectively.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0504 MOVEMENT OF REGULATED ARTICLES WITHIN REGULATED AREAS

There are no restrictions imposed on the movement of regulated articles within regulated areas except where the articles originate on infested properties and an inspector has determined that a hazard of spread exists and the property owner has been so notified. A property owner so notified may move the specified regulated articles within the regulated areas only under conditions approved by an inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0505 COMPLIANCE AGREEMENT

- (a) The Plant Industry Division, Plant Protection Section, adopts by reference 7 CFR 301.80-5 entitled Compliance Agreements except that Deputy Administrator shall be deemed to mean Plant Pest Administrator.
- (b) Federal compliance agreements can be used interchangeably with North Carolina Department of Agriculture, Plant Industry Division forms.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0506 INSPECTION AND DISPOSAL

Any properly identified inspector is authorized to stop and inspect, any person or means of conveyance moving within or from the State of North Carolina upon probable cause to believe that such means of conveyance or articles are infested with the witchweed; and, such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Regulations.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0507 EXEMPTIONS

- (a) The Plant Industry Division, Plant Protection Section, adopts by reference 7 CFR 301.80-2(b) entitled Exemptions.
- (b) The following article is exempt from certification and permit requirements: Seed cotton, if moving to a designated gin.
- (c) Articles originating in those areas described in these Regulations as exempt areas shall be exempt from all certification and permit requirements except when the soil is disturbed at a depth greater than 30 inches below the surface.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0508 REGULATED AREAS

The Plant Industry Division, Plant Protection Section, adopts by reference 7 CFR 301.80-2A, Witchweed Regulated Areas, which is administered by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .0600 - BOLL WEEVIL

02 NCAC 48A .0601 DEFINITIONS

For the purposes of this Section, in addition to definitions contained in G.S. 106-65.69, the following shall apply:

- (1) Compliance Agreement. A written agreement between a person engaged in growing, dealing in or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of the boll weevil;
- (2) Exemptions. Provisions contained in these Regulations which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions;
- (3) Elimination Zone. That portion of this state where eradication of the boll weevil is undertaken as an objective;
- (4) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this Section;
- (5) Regulated Area. Any state other than North Carolina or any portion of such state that is infested with the boll weevil;
- (6) Noninfested Area. That portion of this state not included in an elimination zone;
- (7) Seed Cotton. Cotton as it comes from the field prior to ginning;
- (8) Gin Trash. All of the material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except the lint, cottonseed and gin waste;
- (9) Noncommercial Cotton. Cotton intended for purposes other than processing;
- (10) ASCS. United States Department of Agriculture, Agricultural Stabilization and Conservation Service;
- (11) Farm Operator. Person responsible for production and sale of a cotton crop on any individual farm;
- (12) Used Cotton Harvesting Equipment. Previously utilized cotton equipment used to harvest, strip, transport, or destroy cotton;
- (13) Cotton Crop Residue Destruction. Mowing of cotton plant stalks left in field after harvesting of crop is completed.

History Note: Authority G.S. 106-65.77; 106-65.91; Eff. January 1, 1985; Amended Eff. May 1, 1992; January 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0602 REGULATED ARTICLES

The following articles are regulated under the provisions of this Section:

- (1) the boll weevil (*Anthonomus grandis* Boheman) in any living stage of development;
- (2) seed cotton;
- (3) gin trash;
- (4) used cotton harvesting equipment;
- (5) any other products, articles, or means of conveyance, or any character whatsoever, not covered by Subparagraphs (1) to (4) of this Rule, when it is determined by an inspector that they present a hazard of spread of the boll weevil and the person in possession thereof has been so notified.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24,
2019.*

02 NCAC 48A .0603 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES

The following conditions govern the movement of regulated articles:

- (1) A certificate or permit is required to transport regulated articles from a regulated area into or through any elimination zone in this state.
- (2) A certificate or permit is required to transport regulated articles from one elimination zone into or through another elimination zone, and may be required to move regulated articles(s) within an elimination zone when an inspector determines that the regulated article(s) present a hazard of spread and the person in possession thereof has been notified.
- (3) When certificates or permits are required, they shall be securely attached to the outside of the container in which the articles are moved except where the certificate or permit is attached to the shipping document and the regulated articles are adequately described on the shipping document or on the certificate or permit, the attachment of the certificate or permit to each of the containers is not required.
- (4) Certificates may be issued by an inspector if the regulated articles:
 - (a) have originated in the noninfested area of this state or in a noninfested area of any other state and have not been exposed to infestation at any time;
 - (b) have been treated to destroy infestation in accordance with approved procedure;
 - (c) have been grown, manufactured, stored or handled in such a manner that in the judgment of the inspector no infestation will be transmitted thereby; or
 - (d) when they have been examined by the inspector and found to be free of infestation.
- (5) Permits may be issued by an inspector to allow the movement of noncertified regulated articles for specified handling, utilization, processing, or treatment in accordance with approved procedures, provided the inspector has determined that such movement will not result in the spread of the boll weevil.
- (6) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any conditions for the use of such documents or with any conditions contained in a compliance agreement.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Amended Eff. December 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24,
2019.*

02 NCAC 48A .0604 DISPOSITION OF CERTIFICATES AND PERMITS

In all cases, certificates and permits shall be furnished by the carrier to the consignee at the destination of the shipment.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24,
2019.*

02 NCAC 48A .0605 MOVEMENT FOR SCIENTIFIC PURPOSES

- (a) Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions provided a scientific permit is obtained from the Plant Pest Administrator and securely attached to the container of such articles or to the article itself.
- (b) Procedure for applying for permission for moving regulated articles for scientific purposes is the same as set out in 02 NCAC 48A .1300.

(c) The procedure for processing an application to move regulated articles is the same as that set out in 02 NCAC 48A .1300.

(d) Decisions on acceptance or rejection of applications for movement of the regulated articles for scientific purposes are based on the same criteria as set out in 02 NCAC 48A .1300.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Amended Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0606 COMPLIANCE AGREEMENT

(a) As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

(b) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds, after notice and opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement. Any compliance agreement may be cancelled when compliance is no longer required.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0607 INSPECTION AND DISPOSAL

An inspector is authorized to stop and inspect any person or means of conveyance moving into, within, or from the State of North Carolina upon reasonable grounds to believe that such means of conveyance or articles are infested with the boll weevil; and such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Regulations.

*History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0608 REPORTING OF ACREAGE: LOCATION OF COTTON ACREAGE

All cotton farm operators and growers of noncommercial cotton in an elimination zone shall submit a Cotton Acreage Reporting Form by July 1 of the current growing season to the county ASCS office. A report shall be filed for each year of participation in the program.

- (1) Noncommercial cotton shall not be planted in an elimination zone except under the conditions of a compliance agreement. Growers of noncommercial cotton in an elimination zone may apply for a waiver to grow cotton in an elimination zone. Applications, in writing, shall be made to the Plant Pest Administrator stating the conditions for requesting such waiver. The decision whether or not to waive all or part of these requirements shall be based on the following:
 - (a) location of growing area;
 - (b) size of growing area;
 - (c) pest conditions in the growing area;
 - (d) accessibility of growing area;
 - (e) any stipulations set forth in a compliance agreement between the individual and the Department of Agriculture that are necessary for the effectuation of the program.
- (2) Written application for waivers shall be made to the Plant Pest Administrator for review.

History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Amended Eff. May 1, 1992; December 1, 1988; January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0609 PURCHASE OF COTTON FOR EFFECTUATION OF PROGRAM OBJECTIVES

The Commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the ASCS farm established yield for the current year.

History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0610 DESIGNATED AREAS FOR BOLL WEEVIL CONTROL

- (a) For the purposes of this Section, the entire state of North Carolina shall constitute an elimination zone.
- (b) A regulated area consists of any other state or any portion of such state infested with boll weevil.

History Note: Authority G.S. 106-65.77; 106-65.91;
Eff. January 1, 1985;
Amended Eff. January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0611 PROGRAM PARTICIPATION AND PAYMENT OF FEES

All cotton farm operators in the state are hereby required to participate in the eradication program. Participation shall include timely reporting of acreage and field locations, compliance with regulations, and payment of fees. Farm operators within the elimination zone shall be notified through the extension offices or newspapers of their program costs on a per acre basis on or before March 15.

- (1) Growers are to report all planted cotton by completing a Cotton Acreage Reporting Form and paying a per acre fee at the ASCS office by July 1 of the current growing season.
- (2) The fee is nonrefundable and is to pay for the program's estimated costs as determined by the Commissioner, but will not exceed nine dollars (\$9.00) per acre.
- (3) Growers not reporting planted cotton to ASCS by July 1 of the current growing season will be assessed a three dollar (\$3.00) per acre penalty.
- (4) Growers under-reporting by more than ten percent of the actual planted acreage, as determined by ASCS, will be assessed a penalty of three dollars (\$3.00) per acre on all acreage in excess of the reported acreage.
- (5) All acreage for which fees have not been paid on or before July 15 of the current growing season will be assessed a three dollar (\$3.00) per acre penalty.
- (6) Fees and penalties shall be made payable to the North Carolina Department of Agriculture.

History Note: Authority G.S. 106-65.74; 106-65.77; 106-65.88; 106-65.91;
Eff. January 1, 1985;
Amended Eff. October 1, 1993; May 1, 1992; January 1, 1991; June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0612 COTTON STALK DESTRUCTION

(a) Upon notification in writing by the Commissioner of Agriculture, any farm operator may be ordered to destroy standing cotton stalks in his or her fields when it is deemed by the Plant Pest Administrator that the cotton stalks constitute a potential for harboring overwintering population of boll weevils. As determined by the Plant Pest Administrator, the cotton stalk destruction shall consist of shredding or discing as necessary to eliminate standing stalks. The notification will designate which fields are subject to stalk destruction. Designation of fields subject to

stalk destruction will be based on the capturing of at least two adult boll weevils between September 15 and December 15 of a calendar year. Any field adjacent to a designated field may also be subject to stalk destruction upon notification by the Commissioner.

(b) Any farm operator subject to the provisions of Paragraph (a) of this Rule shall destroy the cotton stalks before February 1 of the following calendar year. Any cotton stalks not destroyed before February 1 shall be treated as regulated articles for the purposes of G.S. 106-65.73. Any field containing the stalks on February 1 shall be quarantined until the stalks are destroyed. Any farm operator who fails to comply with this Rule, absent a waiver as provided in Paragraph (c) of this Rule, shall be assessed a penalty fee of five dollars (\$5.00) per acre.

(c) Any farm operator subject to the provisions of Paragraph (a) of this Rule who cannot destroy cotton stalks before February 1 due to emergency or hardship may apply for a waiver by submitting a letter before January 1 to the Plant Pest Administrator stating the conditions justifying the waiver. The Plant Pest Administrator shall notify the farm operator of his or her decision within two weeks after receipt of such application. The Plant Pest Administrator is located in the Plant Industry Division and can be contacted by calling the Division at 919-707-3730. Waivers shall be approved only if justified by emergency or hardship due to meteorological conditions, economic conditions, or other causes beyond the control of the farm operator.

*History Note: Authority G.S. 106-65.73; 106-65.74; 106-65.77;
Eff. December 1, 1985;
Amended Eff. January 1, 1987;
Readopted Eff. January 1, 2021.*

SECTION .0700 - IMPORTED FIRE ANT

02 NCAC 48A .0701 DEFINITIONS

For the purpose of this Section the following shall apply:

- (1) Certificate. A document issued or authorized to be issued by an inspector to allow the movement of regulated articles to any destination;
- (2) Compliance Agreement. A written agreement between an individual, or concern, engaged in growing, dealing in, or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of the imported fire ant;
- (3) Exemptions. Conditions contained in these Regulations which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions;
- (4) Infestation. The presence of the imported fire ant or the existence of circumstances that make it reasonable to believe that the imported fire ant is present;
- (5) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine;
- (6) Mechanized Soil-Moving Equipment. Mechanical equipment used to move or transport soil--e.g., draglines, bulldozers, road scrapers, and dump trucks;
- (7) Permit. A document issued or authorized to be issued by an inspector to allow the movement of noncertified regulated articles to a specified destination for particular handling, utilization, or processing, or for treatment;
- (8) Pest. The insect known as the imported fire ant (*Solenopsis invicta* Buren, *Solenopsis richteri* Forel) in any stage of development;
- (9) Regulated Area. Any counties or parts of counties in the State of North Carolina listed or provided for in these Regulations.
- (10) Soil. Soil shall be considered as that part of the upper layer of earth in which plants can grow.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .0702 REGULATED ARTICLES

The following articles are regulated articles:

- (1) the imported fire ant (*Solenopsis invicta* Buren, *Solenopsis richteri* Forel) in any living stage of development;
- (2) soil, compost, decomposed manure, humus, muck and peat, separately or with other things;
- (3) plants with roots with soil attached, and/or roots and rhizomes of plants with soil attached (example: sweet potatoes);
- (4) grass sod;
- (5) hay and straw;
- (6) logs, pulpwood, and stumpwood;
- (7) used mechanized soil-moving equipment;
- (8) any character whatsoever, not covered by Items (1) to (7) of this Rule, when it is determined by an inspector that they present a hazard of spread of imported fire ant and the person in possession thereof has been so notified.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0703 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES

(a) Unless exempted in 02 NCAC 48A .0706, Exemptions, a certificate or permit must accompany the movement of regulated articles from any regulated area into or through any point outside thereof. Regulated articles originating outside of a regulated area may be moved without a certificate or permit if the point of origin is clearly indicated on the shipping document accompanying the regulated articles provided, in the case of articles moved through a regulated area, the regulated articles are protected from infestation, while within regulated areas, to the satisfaction of an inspector.

(b) Certificates must accompany the movement of regulated articles. The areas designated generally infested shall include those areas outlined in 7 CFR 301.81-2(a) with the addition of Anson County as follows:

- (1) Anson County. That portion of the county bounded by a line beginning with the junction of State Secondary Road 1756 and the Pee Dee River; thence south and west along said road to its junction with State Secondary Road 1744; thence south along said road to its junction with State Secondary Road 1745; thence west along said road to its junction with State Secondary Road 1801; thence south and east along said road to its junction with Highway 145; thence north and east along said highway to its junction with Highway 74; thence east along said highway to its junction with State Secondary Road 1748; thence north along said road to its junction with the Pee Dee River;
- (2) Other Areas. Any other areas in the State of North Carolina now known or hereafter found infested with imported fire ant, such other areas to become immediately subject to these Regulations when the property owner or his agent is notified by the Plant Pest Administrator through a newspaper release or through direct written notice to those concerned. Such newly infested areas shall be presented at least one time annually to the Board of Agriculture when said board can rescind or confirm such regulated areas.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0704 ISSUANCE AND CANCELLATION OF CERTIFICATES AND PERMITS

(a) Certificates and permits shall be issued and cancelled pursuant to the criteria contained in 7 CFR 301.81-4; provided, references to "federal domestic plant quarantines" shall be construed to mean "state plant quarantines" and "Deputy Administrator" shall be construed to mean "Plant Pest Administrator".

(b) Federal certificates or permits may be used in lieu of permits issued by the North Carolina Department of Agriculture.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0705 ADOPTION BY REFERENCE

7 CFR 301.81-5, -6, -7 entitled respectively Compliance Agreements, Assembly and Inspection of Regulated Articles and Attachment and Disposition of Certificates and Permits, are adopted by reference; provided that, references to "interstate" shall mean "intrastate" and references to the "Deputy Administrator" shall mean "Plant Pest Administrator".

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0706 EXEMPTIONS

The following regulated articles are exempt from certification and permit requirements from all regulated areas under the applicable conditions prescribed in Items (1) to (6) of this Rule:

- (1) soil samples of one pound or less which are packaged so that no soil will be spilled in transit and are consigned to laboratories operating under compliance agreement;
- (2) soil samples of any size collected and shipped to any U.S. Army Corps of Engineers soil laboratory;
- (3) compose, decomposed manure, humus and peat, if dehydrated, ground, pulverized, or compressed;
- (4) logs and pulpwood, provided, the loading site has been treated;
- (5) stumpwood, if free of excessive amounts of soil, provided, the railroad loading site has been treated and the stumpwood is consigned to a designated plant;
- (6) used mechanized soil-moving equipment, if cleaned and repainted;
- (7) material being safely transported to a U.S. Department of Agriculture approved laboratory.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .0800 - POTATO VIRUS Y

02 NCAC 48A .0801 DEFINITIONS

The following definitions will apply to this Section:

- (1) Potato Virus Y (PVY). The plant virus known as potato virus Y which is the causal agent of veinbanding of tobacco;
- (2) Infestation or Infected Plant. The presence of the virus as determined by serological or host reaction tests;
- (3) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine;
- (4) Regulated Areas. Any civil division and parts of civil divisions in the United States from which the importation of regulated articles into North Carolina is prohibited;
- (5) Regulated Articles. Plants, plant products or insects capable of harboring or transmitting potato virus Y which are listed in these Regulations.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0802 REGULATED ARTICLES

The following articles are regulated under the provisions of these Regulations:

- (1) the plant virus known as potato virus Y;
- (2) tomato plants originating in regulated areas;
- (3) tobacco plants originating in regulated areas;
- (4) any other plants implicated as carriers of PVY.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0803 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES

- (a) Requirements under other applicable state quarantines must also be met.
- (b) Articles regulated under the provisions of these Regulations may not be moved from regulated areas into North Carolina, moved within, sold or given away in the state.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0804 INSPECTION AND DISPOSAL

Any properly identified inspector is authorized to stop and inspect any means of conveyance moving within or into the State of North Carolina upon probable cause to believe that such means of conveyance is carrying regulated articles; and, such inspector is authorized to seize, treat, destroy, return to shipper or otherwise dispose of articles found to be moving in violation of these Regulations. Any tomato plants, planted or unplanted in North Carolina found to be infected with potato virus Y during early season may be ordered destroyed under the provisions of G.S. 106-421 if in the opinion of the inspector the plants are a PVY hazard to nearby tobacco.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0805 EXEMPTIONS

Plants may be exempted from the provisions of this quarantine provided they meet the following provisions:

- (1) All plants are grown in a greenhouse;
- (2) The plants are maintained aphid free by means of insecticidal treatment;
- (3) The appropriate state agency of the quarantined state certifies that the provisions in this Rule have been met and that the plants are apparently free of potato virus Y and so indicates by means of stamp or printed label on each carton, crate or box.

History Note: Authority G.S. 106-65.45; 106-65.46;
Eff. January 1, 1985;
Amended Eff. October 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0806 REGULATED AREAS

The movement of regulated articles into North Carolina from the following areas is prohibited:

- (1) Florida. All Florida counties south of and including Dixie, Gilchrist, Alachua, Putnam, and Flagler;
- (2) Other Areas. Any other areas in the United States when it has been determined potato virus Y is present on a year-round basis, and/or there is the possibility of a PVY spread hazard on tomato plants from these areas.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;

Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .0900 - SWEET POTATO WEEVIL

02 NCAC 48A .0901 REGULATED AREAS

The following areas are regulated:

- (1) Exterior Areas. Any areas in the states of Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas, or in any other state, which are found to be infested with the sweet potato weevil or which are regulated by the plant regulatory agency of the state concerned;
- (2) North Carolina. New Hanover County: The entire island bordered on the west by the Cape Fear River and on the east by the Atlantic Ocean and south of that line established from the Carolina Beach Inlet from the Atlantic Ocean along the Intracoastal Waterway at Snow Canal until it reaches the Cape Fear River;
- (3) Brunswick County. The entire area bordered on the north by the Intracoastal Waterway and on the east by the Cape Fear River and on the south by the Atlantic Ocean and on the west by a straight line beginning at the junction of Highway 133 with the Intracoastal Waterway, extending south through the point where Highway 133 ends, and terminating at the junction of said straight line with the Atlantic Ocean;
- (4) Other Areas. Any other areas in the State of North Carolina now known or hereafter found infested with the sweet potato weevil shall become subjected to these Regulations upon written notification to those concerned. Such newly infested areas shall be presented at least one time annually to the Board of Agriculture at which time said board can rescind or confirm such regulated areas.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. October 1, 1989; January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0902 DEFINITION OF WORDS: TERMS AND PHRASES

For the purposes of this Section and these Regulations, the following words, phrases and terms shall apply:

- (1) Pest and/or Sweet Potato Weevil. The insect known as the sweet potato weevil (*Cylas formicarius*, *elegantulus*) in any stage of development--egg, larva, pupa or adult;
- (2) Department. The North Carolina Department of Agriculture;
- (3) State Entomologist. The Plant Pest Administrator of the Plant Industry Division, North Carolina Department of Agriculture;
- (4) Commissioner. The Commissioner of Agriculture for North Carolina;
- (5) Agent or Inspector. An authorized representative of the Commissioner;
- (6) Regulated Article. Sweet potatoes, dehydrated sweet potatoes, sweet potato roots, plants, vines or parts thereof; vines or roots of any other plants belonging to the genus *Ipomoea*; and such other plants as may be found to be hosts of the sweet potato weevil, and used containers;
- (7) Container. A crate, box, basket, sack or any other kind of container used in handling or moving sweet potatoes, dehydrated sweet potatoes, or sweet potato vines, or roots;
- (8) Person. An individual, firm or corporation;
- (9) Quarantined or Regulated Area. Any portion of the State of North Carolina or of any other state in which the sweet potato weevil is found, or has been placed under quarantine on account of same;
- (10) Property. Any structure or parcel of land on which planting of sweet potatoes or other restricted material is growing or has been grown, stored, or processed;
- (11) Infestation or Infested Property. A property on which host material has been found infested with the sweet potato weevil, or a property onto which regulated material has been moved for any purpose from an infested property, and regulated or host material which has been exposed to, has come in physical contact with, or been stored where the weevil has been found. Such properties

- shall be considered infested until the Plant Pest Administrator is of the opinion that the sweet potato weevil no longer exists on said property;
- (12) Nonquarantined Area. That portion of the State of North Carolina outside a quarantined area;
 - (13) Processors. Persons who operate sweet potato canning and/or dehydrating plants;
 - (14) Storehouse or Warehouse. A building where sweet potatoes are assembled and stored;
 - (15) Dealer. An individual, firm or corporation commercially engaged in the handling, sale, offering for sale and/or movement of sweet potatoes.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0903 MOVEMENT PROHIBITED

Movement of the following regulated articles is prohibited:

- (1) The sweet potato weevil in any stage of development except for scientific purposes when moved under provisions of federal or state regulations;
- (2) Infested sweet potatoes for bedding purposes or infested sweet potato plants or vines for planting is prohibited.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0904 MOVEMENT REGULATED

Movement of the following articles is regulated:

- (1) sweet potato roots, sweet potatoes, plants, vines or parts thereof;
- (2) the vines or roots of other plants belonging to the genus Ipomoea;
- (3) such other plants as may be found to be host to the sweet potato weevil.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0905 MOVEMENT HAZARD

The movement of used containers, tops, trash or other articles or materials may be regulated under the provisions of this quarantine if the Commissioner, or his authorized inspector, determines a hazard of spread exists and so notifies the owner or possessor of the article, product, or item.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0906 DISPOSITION

Regulated articles from quarantined areas that are infested with the sweet potato weevil or have been exposed to infestation by the sweet potato weevil may be ordered destroyed or fumigated by the owner, or destroyed or fumigated by the Commissioner of Agriculture, in accordance with G.S. 106-421 at the expense of the owner. The Commissioner or his agent may allow regulated articles to move in sealed vehicles to designated safe markets under limited permit; however, no quarantined seed sweet potatoes will be allowed to move under any condition in North Carolina.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0907 GROWTH AND STORAGE

No sweet potatoes or other regulated plants or articles will be grown, stored, discarded or allowed to be exposed to sweet potato weevil in the regulated area. If, in the opinion of the Plant Pest Administrator, such will not constitute a spread or development hazard, noninfested sweet potatoes for nonseed purposes may be stored in tight warehouses, curing houses and other buildings used for potato storage in the regulated area provided they are protected and handled in a manner approved by the Plant Pest Administrator.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0908 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES

Regulated articles from quarantined areas may move in or into North Carolina only under the following conditions:

- (1) To each package of sweet potatoes must be attached a tag issued by the authorized federal or state inspector certifying the following:
 - (a) that the sweet potatoes were fumigated in a fumigation chamber, approved by the state inspector, with methyl bromide or other approved fumigant at the proper dosage and time of exposure necessary to kill all stages of the weevil, and done under the supervision of the office of the Plant Pest Administrator;
 - (b) that the sweet potatoes are shipped immediately after being fumigated;
 - (c) that the car or truck was thoroughly cleaned before loading to prevent reinfestation.
- (2) The shipper must notify the Plant Pest Administrator, North Carolina Department of Agriculture, Raleigh, North Carolina, at the time of shipment of the fumigated sweet potatoes giving consignee, destination, and size of shipment.
- (3) No sweet potato plants, vines, cuttings or parts thereof shall be moved in or into the State of North Carolina from any regulated area.
- (4) No sweet potatoes for seed or bedding purposes or plants will be stored in or shipped from a quarantined area.
- (5) The Commissioner or his agent may allow regulated articles to move in North Carolina from a regulated area in North Carolina for processing purposes if it can be determined that no spread hazard exists under the shipping and processing conditions. Limited permits may be issued to cover movement of regulated articles to specified destinations for limited handling, utilization or processing when, in the judgment of the Commissioner or his agent, there is no spread hazard involved.
- (6) The Commissioner or his agent may adopt and enforce regulations for the transit of regulated articles through nonquarantined areas of North Carolina in sealed trucks enroute to safe markets that will accept such articles for immediate consumption.
- (7) Regulated articles originating outside the regulated area may move through or be reshipped from the regulated area when the point of origin is clearly indicated, when their identity has been maintained, and when the articles have been protected from contamination by the sweet potato weevil while in the regulated area.
- (8) Certificates for movement of regulated articles will be issued when the article meets requirements for growth, handling and movement as is set forth in these Regulations.
- (9) Sweet potatoes or other regulated articles, products or items for experimental use or for propagation under the supervision of a state agency may be introduced under special permit when the Plant Pest Administrator considers such importations safe under such precautions as he shall specify.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0909 WAIVER OF REQUIREMENTS

When it has been determined by the Commissioner or his agent that certification or treatments are no longer necessary or desirable under the specified conditions of these Regulations, he may waive the certification and/or treatment requirements on specified articles, products and items.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0910 DEALER AND HANDLER REGISTRATION

(a) Persons moving any of the regulated articles into or from any quarantined area, dealers, brokers, warehousemen or processors who do any type of sweet potato business in any quarantined area shall register with the North Carolina Department of Agriculture, Plant Industry Division.

(b) The Commissioner may prescribe and enforce sanitary and handling regulations both in and out of regulated areas designed to prevent the spread or development hazard of the sweet potato weevil.

(c) All seed sweet potatoes or transplants sold in North Carolina by these individuals shall be accompanied by a certificate of inspection issued by the appropriate official plant quarantine agency of the state of origin, stating that seed potatoes, beds, and resulting transplants were inspected and found to be apparently free of the sweet potato weevil and that these transplants originated in a noninfested area.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .0911 RESPONSIBILITY FOR DAMAGES

The responsibility for any damages to any property, product, article or item as a result of prescribed treatment procedures rests with the owner or possessor of the property, product, article, or item involved and such owner or possessor shall bear the costs of any treatments that may be required under these Regulations.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .1000 - VEGETABLE PLANT CERTIFICATION

02 NCAC 48A .1001 PURPOSE

These rules establish certain additional requirements pursuant to Chapter 106, Article 31-B of the General Statutes of North Carolina so that vegetable transplants which are to be packed, offered or exposed for sale or shipped into North Carolina shall be provided with a statement as to the variety and shall also meet additional qualitative requirements as stated in these rules.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1002 DEFINITIONS

For the purpose of this Section, the following shall apply:

- (1) Compliance Agreement. Means a written contract between an individual, firm or corporation engaged in shipping and/or selling vegetable plants and the North Carolina Department of Agriculture, Plant Industry Division, wherein the party agrees to handle or dispose of vegetable plants, crates or labels only in a specified manner.

- (2) Inspector. Means an authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of these rules.
- (3) Seed Potato. Means a tuber of the white potato (*Solanum tuberosum* L.) or any part thereof, sold or represented for sale for the purpose of propagation.
- (4) Variety. Means a subdivision of a kind characterized by growth, plant, fruit, seed, or other constant characteristics by which it can be differentiated in successive generations from other sorts of the same kind.
- (5) Hybrid. Means the first generation seed of a cross produced by controlling cross-fertilization and combining:
 - (a) two or more inbred lines or clones; or
 - (b) one or more inbred lines or clones with an open-pollinated variety; or
 - (c) two or more varieties or species, clonal or otherwise, except open-pollinated varieties of normally cross-fertilized species.

The second generation or subsequent generation seed from such a cross shall not be designated as hybrids. A hybrid designation when applicable, shall satisfy the requirement for variety name in these rules.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1003 CERTIFICATE OF INSPECTION

- (a) Vegetable plants shall be deemed to be appropriately tagged or labeled as certified vegetable plants for transplanting when the tag or label bears a current, valid certificate of inspection:
 - (1) certifying that the vegetable plants conform to standards promulgated by the Board of Agriculture in regard to freedom from plant pests;
 - (2) indicating the grower by name or by grower identification number;
 - (3) firmly attached to each crate, bag, box or other container of vegetable plants;
 - (4) plainly visible from an outside inspection (i.e., is not stuffed in among the plants);
 - (5) which the only certificate on the container with the possible exception of the variety statement.
- (b) Tags or labels bearing a certificate of inspection shall not be removed from the crate, bag, box or other container nor shall the crate, bag, box or other container be broken and the plants repacked in other containers except under compliance agreement with the North Carolina Department of Agriculture, Plant Industry Division.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1004 VARIETY STATEMENT

- (a) The variety name, or a statement that the variety is mixed or is not stated, shall be placed on each crate, bag, box or other container of vegetable plants by the grower of the plants. The variety name or statement shall be stamped, printed or otherwise indicated by the grower on one of the following: the certificate of inspection, a separate tag affixed in a prominent place on the outside of the crate, bag, box or other container, or in a prominent place on the crate, bag, box or other container directly. Dealers, brokers or any other person shall not add a variety name or statement other than the name placed by the grower of the plants.
- (b) A person, firm or corporation shall not pack, offer or expose for sale, or ship into this state any vegetable plants for which unsubstantiated claims have been made or which are otherwise mislabeled as to variety. Shippers or dealers having in their possession plants that are unlabeled as to variety may offer these plants for sale provided such plants are plainly labeled variety not stated.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
 Eff. January 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1005 STANDARDS

- (a) All vegetable plants shall meet the requirements of all applicable state and federal plant pest quarantines.
- (b) With the exception of asparagus, onion sets and white seed potatoes, all vegetable plants shall be field inspected within three days of their being placed for sale or being shipped into North Carolina.
- (c) With respect to the indicated plants, the following shall apply:

Plant	Tolerances
Tomato	
Bacterial canker	0
Bacterial spot	0
Wilt diseases	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
Pepper	
Bacterial spot	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
Flowers and/or pods	apparently free
Pepper Weevil	0
Sweet Potato	
Scurf	0
Black rot	0
Soil rot or pox	0
Internal cork	0
Fusarium wilt	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
Cabbage and other cole crops	
Black rot	0
Black leg	0
Clubroot	0
Yellows	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
Eggplant	
Wilt diseases	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
Onion plants and sets	
White rot	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation

Asparagus Crowns	
Fusarium wilt and crown rot	0
Other injurious diseases and viruses	apparently free
Root knot and other injurious nematodes	0
Insects	no apparent injury or infestation
White seed potatoes	
Field inspection:	
Leafroll	2 Percent
Mosaic	2 Percent
Spindle tuber	2 Percent
PVYN	.75 Percent
Total viruses	3 Percent
Black leg and wilts	1 Percent
Bacterial ring rot	0 Percent
Varietal mixture	.5 Percent

White seed potatoes must be grown in a certified seed program utilizing a flush through system for PVYN.

Tuber inspection:

Not more than a total of five percent by weight shall be allowed for excessive damage resulting in the following defects:

Flea beetle injury

Rhizoctonia

Pitted scab

Russet scab

Surface scab

Wireworm damage

Insects or worms inside potato dirt

Provided, that included in this five percent tolerance not more than the percentages by weight shall be allowed for the defects listed below:

Defect

Bacterial ring rot	0 Percent
Damage caused by dry or moist type	
Fusarium tuber rot	2 Percent
Late blight tuber rot	1 Percent
Nematode or tuber moth injury	0 Percent
Varietal mixture	.5 Percent
Frozen soft rot or web breakdown	1 Percent

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985;

Amended Eff. January 1, 1994; January 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1006 DISPOSITION OF PLANTS FOUND IN VIOLATION OF REQUIREMENTS

(a) Vegetable plants packed for sale, offered or exposed for sale, or shipped into this state found to be in violation of G.S. Chapter 106, Article 31-B may be tagged with a "Stop-Sale Notice". It shall be unlawful for any person, after receipt of such "Stop Sale Notice", to obstruct from view or remove such notice from plants or from any location to which attached; or to sell, give away, move or exchange such plants until so authorized by an inspector.

(b) Vegetable plants not meeting standards promulgated by the Board of Agriculture in regard to freedom from plant pests may be treated, destroyed, or otherwise disposed of in accordance with G.S. 106-421.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1007 MOVEMENT FOR SCIENTIFIC PURPOSES

Notwithstanding the provisions of 02 NCAC 48A .1000, vegetable plants not meeting the standards established in these rules may be moved for experimental or scientific purposes in accordance with conditions specified in 02 NCAC 48A .1300 provided a North Carolina scientific permit is securely attached to the containers of such plants.

*History Note: Authority G.S. 106-65.45; 106-45.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1008 NOTIFICATION OF INTENT TO IMPORT CERTAIN VEGETABLE PLANTS

(a) Any person, firm, partnership or corporation who intends to transport pepper plants (*Capsicum* sp.) into this state where all or a portion of the resulting pepper crop is intended for sale, shall notify, on forms supplied by the North Carolina Department of Agriculture, Plant Pest Administrator, of such an intent before any shipment of such plants enters this state.

(b) Notification shall include:

- (1) name and address of importer;
- (2) type of vegetable plant to be imported;
- (3) name and address of transplant grower;
- (4) number of plants to be brought into North Carolina;
- (5) approximate date of importation of plants;
- (6) intended use of plants;
- (7) other information as may be required by the Plant Pest Administrator, Plant Industry Division.

(c) The information contained in the notification will be evaluated by the Plant Pest Administrator, Plant Industry Division, who will advise the importer as to the ability of the transplant grower to meet the certification standards of this Section as determined by a certifying agency of the state-of-origin of the plants.

(d) Pepper plants (*Capsicum* sp.) that are imported into this state in violation of this Rule are subject to the penalties outlined in 02 NCAC 48A .1006.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

SECTION .1100 - TOBACCO PLANT CERTIFICATION

02 NCAC 48A .1101 PURPOSE

The purpose of this Section is to establish requirements under Chapter 106, Article 36 of the General Statutes of North Carolina as amended entitled Plant Pest Law to protect tobacco producers from the importation of pests affecting the future stability of the tobacco industry and the general welfare of the public by prohibiting the importation of tobacco plants into North Carolina from any other state or foreign country unless under import permit.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1102 DEFINITIONS

For the purpose of this Section, the following shall be construed respectively to mean:

- (1) **Certifying Agency.** An officially recognized inspecting or certifying agency whose standards have been determined by the Commissioner of Agriculture to conform to the standards contained in this Section;

- (2) Certified Tobacco Plants for Transplanting. Plants which have been tagged or labeled so as to indicate that such plants have been grown under the certification procedures of the certifying agency;
- (3) Certificate of Inspection. An official tag or label of the officially recognized inspecting or certifying agency indicating that the plants have been inspected by an authorized agent of such agency and found to conform to the appropriate standards as established by law and by these Rules;
- (4) Standards. As applied to tobacco plants standards shall include freedom from injurious insects, diseases, nematodes, and other pests or the damage caused by same and means the standards with respect to these as established and fixed in these rules;
- (5) Scientific Permit. A document issued by the Plant Pest Administrator to allow the movement of tobacco plants in violation of this Section for experimental or scientific purposes;
- (6) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this Section;
- (7) Tobacco Plant Import Permit. A document issued by the Plant Pest Administrator to allow the importation of tobacco transplants;
- (8) Emergency Conditions. Any plant bed failure due to but not limited to environmental conditions or pest infestations of a local or general nature.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1103 UNLAWFUL USE OR DISTRIBUTION OF PLANTS

- (a) No person, firm, company, partnership or corporation (hereinafter "person") shall pack, transport, sell or offer for sale, ship or bring into or plant in this state any tobacco plants produced out of state unless such plants are certified tobacco plants and are imported under the tobacco plant import permit.
- (b) Only certified tobacco plants shall be sold or offered for sale in North Carolina, except that a person may sell or donate uncertified tobacco plants produced in North Carolina to residents of this state provided the planting location is within 75 miles from where the plants were produced.
- (c) A North Carolina resident, including any firm, company, partnership or corporation having its principal place of business in this state, engaged in the production of tobacco on land located both in North Carolina and a contiguous state, may apply to the Plant Pest Administrator for an exemption from the certification and importation requirements of this Section. Exemptions may be granted if each of the following conditions exist:
 - (1) the land is used for tobacco production;
 - (2) the land lies both in this state and a contiguous state; and
 - (3) the land does not extend more than 30 miles from the North Carolina border.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Amended Eff. April 1, 1997; October 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1104 INFESTED PLANTS

Any tobacco plants in North Carolina whether or not accompanied by a certificate of inspection, found infested with or damaged by injurious pests, are infested plants and are hereby declared a public nuisance and may be returned to the shipper, treated, destroyed or otherwise disposed of by the inspector without compensation to the consignor.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1105 STOP SALE OR USE NOTICE

(a) Any inspector of the North Carolina Department of Agriculture shall have the authority to issue a "Stop Sale or Use Notice" when tobacco plants are found to be or suspected to be infested or not grown and inspected as required by any provision of law or these rules.

(b) It shall be unlawful for any person, after receipt of such "Stop Sale or Use Notice," to remove such notice from plants or from any location to which attached; or, to sell, give away, move, plant or exchange such plants until so authorized by an inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1106 DISPOSITION OF PLANTS IN VIOLATION

Plants on which a Stop Sale or Use Notice has been issued shall be removed from any sales area so as not to be exposed for sale. The inspector may, when it is deemed advisable, require plants in violation to be returned to shipper, treated, destroyed, or otherwise disposed of.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1107 EMERGENCY CONDITIONS

(a) The Commissioner of Agriculture may waive this Section in whole or in part or set standards as to pest or disease tolerances different from those in Rule .1110 of this Subchapter when it has been determined that emergency conditions warrant such action.

(b) Any grower applying for an emergency waiver shall make verbal application to the Commissioner of Agriculture followed by a written application stating the conditions under which he requests such waiver and certify that he has made an effort to grow his own plants, obtain plants on a local level or obtain plants elsewhere within the states that comply with this Section and that such plants were not available.

(c) A review committee made up of the Commissioner of Agriculture, the Plant Pest Administrator, Plant Industry Division and a representative of the Dean, School of Agriculture and Life Sciences, North Carolina State University, Raleigh, shall review such requests and reply to the applicant in writing in not less than one working day or more than five working days from the receipt of such application.

(d) The review committee may upon the application of one or more growers from a given geographical area and upon determination by the committee that an emergency condition exists waive all or part of this Section for a designated geographical area.

(e) The decision whether or not to waive all or part of this Section will be based on knowledge gained from county agricultural extension agents, tobacco growers, Department of Agriculture personnel, extension tobacco specialists, and other tobacco workers having knowledge of the conditions in the geographical area of the applicant.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1108 SECTION NOT APPLICABLE

The provisions of this Section shall not apply to the sale of plants produced in North Carolina for use outside North Carolina provided that such plants are found not to be infested with pests such that the exposure for sale or planting is deemed by Commissioner or his agent to be a hazard to the tobacco industry of North Carolina.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1109 TOBACCO PLANT IMPORT PERMIT

- (a) Any tobacco producer may submit application for a tobacco plant import permit so that he may obtain tobacco transplants from an out-of-state transplant grower.
- (b) Applications for such permission will be subject to the following conditions:
- (1) Applications in writing shall be made to the Plant Pest Administrator, Plant Industry Division.
 - (2) Applications shall include the following:
 - (A) name and address of North Carolina tobacco producer,
 - (B) name and address of transplant grower,
 - (C) number of plants to be brought into North Carolina,
 - (D) location of where plants are to be set out in North Carolina,
 - (E) reason for bringing plants into North Carolina as opposed to growing or obtaining plants from within North Carolina.
 - (3) Applications will be reviewed by the Plant Pest Administrator, Plant Industry Division and either approved or disapproved based on:
 - (A) information contained in the application,
 - (B) past performance of the transplant grower as determined by a certifying agency,
 - (C) ability of the transplant grower to meet the certification standards of this Section as determined by a certifying agency.
 - (4) Applications may be initially approved and later disapproved if it becomes apparent that:
 - (A) the transplants to be brought into North Carolina do not meet the certification standards of this Section, or
 - (B) the North Carolina tobacco producer has provided false or misleading information on his application to import tobacco transplants.
- (c) All tobacco plants imported under permit shall be inspected by the certifying agency of the state of origin based on standards contained in this Section.
- (d) All containers of tobacco plants imported under permit shall be subject to the following conditions:
- (1) The certificate of inspection must be firmly attached to each container of tobacco plants so as to be plainly visible from the outside:
 - (A) inspection tape used to tie plants in bundles may have the certificate of inspection printed on it but stuffing a certificate in among the plants inside a container is not permitted;
 - (B) the current valid certificate or a printed copy must be the only certificate on the container, all old certificates must be removed or voided.
 - (2) The certificate of inspection shall show the name of the grower and location at which the plants were grown.
 - (3) The variety name shall be stamped or printed on the certificate of inspection by the grower.
 - (4) Any person, firm or corporation who willfully sells plants that have been mislabeled as to variety purity shall be guilty of a violation of this Section. Each sale or unsubstantiated claim shall be a separate violation.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. April 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1110 STANDARDS

- (a) All tobacco plants shall meet the requirements of all applicable state and federal plant pest quarantines.
- (b) All certified tobacco plants offered for sale or imported under permit into North Carolina shall meet the following requirements:
- (1) The soil in the beds in which the plants are to be grown shall be fumigated under plastic cover with methyl bromide (minimum 60 percent in formulation at the rate indicated on the label for tobacco transplant beds).
 - (2) All plants shall be field inspected a maximum of five days prior to their being offered for sale in North Carolina.
 - (3) All plants shall be found apparently free from all injurious plant pests including but not limited to insects, diseases and nematodes.

- (4) All plants shall be apparently free of blue mold, target spot, black shank, Granville wilt, Fusarium wilt, virus diseases and root knot nematodes.
- (5) To aid in ensuring apparent freedom from injurious plant pests, the grower shall make full use of all compatible and approved pest control practices during the growing of the transplants.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. April 1, 1985; Amended Eff. April 1, 1997; June 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .1200 - NURSERY CERTIFICATION

02 NCAC 48A .1201 DEFINITIONS

Definitions:

- (1) Agent. Any person who solicits, takes orders or sells nursery stock or collected plants for a nurseryman or dealer off the premises or place of business of said nurseryman or dealer;
- (2) Collected Plant. Any nursery stock, other than currently certified nursery stock, which is dug or gathered from any location;
- (3) Collected Plant Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has given satisfactory evidence that all nursery stock collected by him will be in accordance with the plant pest regulations of the North Carolina Department of Agriculture;
- (4) Collected Plant Regulated Area. Any counties or parts of counties in the State of North Carolina listed or provided for in these Rules; when it is determined that there are large numbers of plants collected in any area of the state, or that movement of nursery stock presents a hazard because of plant collections in that regulated area;
- (5) Infestation. The presence of any plant pest which is regarded as injurious;
- (6) Inspector. An employee of the North Carolina Department of Agriculture designated by the Commissioner to enforce these Regulations;
- (7) Nursery. Any place where any of the plants defined as nursery stock are grown for distribution or sale;
- (8) Nursery Dealer. Any person not a grower of nursery stock who obtains certified nursery stock and/or collected plants for the purpose of distribution or sale independent of the control of a nursery;
- (9) Nursery Dealer Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has given satisfactory evidence that all nursery stock sold or otherwise disposed of by him will be such as was secured from regularly certified nurseries or certified plant collectors;
- (10) Nurseryman. Any person who owns, leases, manages or is in charge of a nursery;
- (11) Nursery Registration Certificate. A document issued by the North Carolina Department of Agriculture which declares that the person named on the certificate has listed his name, address, and location with the Plant Industry Division, Plant Protection Section of the North Carolina Department of Agriculture, and is authorized to distribute or sell nursery stock within the state;
- (12) Nursery Stock. All wild or cultivated plants or parts thereof, trees, shrubs, vines, bulbous plants and roots, grafts, scions and buds. Excluded are:
 - (a) annual plants;
 - (b) cut flowers;
 - (c) tree, field, vegetable, flower or other true seeds;
 - (d) decorative plants or plant parts without roots not intended for propagation; and
 - (e) perennial plants intended for indoor use that are produced in North Carolina.

These exclusions may not apply to plants for which an inspection is required to facilitate movement or is required by another rule in this Chapter;

- (13) Person. Individual, corporation, partnership, firm or association;
- (14) Plant Inspection Certificate. A document issued by the North Carolina Department of Agriculture or the appropriate plant pest regulatory agency of any other state which declares that the plants

- grown by the person named on the certificate have been inspected and found apparently free of injurious plant pests;
- (15) Shipping Tag. A tag issued by an authorized inspector of the North Carolina Department of Agriculture which accompanies individual shipments of plants which states the number and identity of all the plants in the shipment and declares the apparent freedom from injurious pests.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990; October 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1202 NURSERIES TO APPLY FOR INSPECTION OR REGISTRATION

- (a) All nurserymen who distribute nursery stock in North Carolina, except as provided in (b) of this Rule, shall make application to the Plant Industry Division for inspection prior to offering plants for distribution or sale.
- (b) All nurserymen whose business is less than one acre in size and whose sales are confined to North Carolina shall register their nurseries with the Plant Industry Division prior to distributing or selling any nursery stock.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1203 OTHER PLANT INSPECTIONS

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Repealed Eff. June 1, 1990.

02 NCAC 48A .1204 CLASSIFICATION OF NURSERIES

All nurseries in North Carolina shall be classified as certified or registered. All nurserymen have the right to request the category to which they are assigned. Final assignment may be based on agreement between the inspector and nurseryman.

- (1) Certified. Any nursery that is one acre or more in size or that produces and distributes or sells nursery stock outside the state:
- (a) Retail Nursery. Any nursery where 80 percent or more of the nursery stock sold is to the final consumer;
 - (b) Wholesale Nursery. Any nursery where 80 percent or more of the nursery stock sold is to other nurseries, dealers or persons for resale;
 - (c) Retail and Wholesale Nursery. Any nursery where sales consist of nursery stock which is sold as follows:
 - (i) directly to the final consumer, and
 - (ii) to other nurseries and/or dealers for resale with the percentage of sales for categories (a) and (b) being less than 80 percent each;
- (2) Registered. Any nursery less than one acre in size that produces but does not distribute or sell nursery stock outside the state;
- (3) Institutional. Any nursery owned or operated by any governmental agency.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1205 FEES

Fees for nursery inspection or registration based on acres of salable nursery stock are as follows:

- | | | |
|-----|--------------------------------|----------|
| (1) | Certified: | |
| | First acre or fraction thereof | \$100.00 |
| | Each additional acre | \$3.00 |
| (2) | Registered | \$20.00 |
| (3) | Institutional | None |

A certificate shall not be issued until the nursery has complied with all plant pest quarantine rules in this Chapter and all inspection or registration fees are paid.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. August 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1206 CERTIFICATE REQUIRED

No person shall distribute, sell or offer for sale nursery stock or collected plants without a valid nursery dealer certificate, plant inspection certificate or nursery registration certificate as required in these rules.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1207 NURSERY INSPECTION AND RECORD-KEEPING

(a) A plant inspection certificate shall be issued after the nursery has been inspected by an inspector of the North Carolina Department of Agriculture, found apparently free of injurious plant pests, and the proper fee paid. An inspection shall be conducted at least once annually prior to September 30 of each year. The certificate shall be valid until September 30 of the following year, but may be revoked or suspended for cause in accordance with the provisions of G.S. Chapter 150B.

(b) A nursery registration certificate shall be issued after the nursery has been inspected by an inspector of the North Carolina Department of Agriculture, found apparently free of injurious plant pests, less than one acre in size, and the proper fee paid. An inspection shall be conducted at least once every three years. Registration may be revoked or suspended for cause in accordance with the provisions of G.S. Chapter 150B. A person who holds a nursery registration certificate shall immediately report to the Plant Industry Division any changes in acreage or shipping procedures when such changes result in their being placed in a different nursery classification, (i.e. an increase in business size to one acre or more or out-of-state sales).

(c) All nurserymen may be required to keep accurate records of plant acquisitions and sales when such records are deemed necessary by the Plant Pest Administrator in order to trace the spread of plant pests. The records shall be presented upon request to any authorized inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1208 NURSERY DEALER CERTIFICATE

(a) Persons who maintain no regular nursery but who deal in nursery stock grown in certified or registered nurseries or who deal in collected plants shall be required to possess a nursery dealer certificate. To obtain such a certificate, the nursery dealer shall submit an application listing all sources of nursery stock and collected plants to be distributed or sold. It shall be a violation of this Section for a nursery dealer to distribute or sell nursery stock or collected plants which have not been inspected and certified by an inspector in North Carolina or an authorized plant pest regulatory official of another state or country.

(b) The annual fee for a nursery dealer certificate shall be fifty dollars (\$50.00) for each location from which nursery stock is sold, bartered, exchanged or given away. This certificate expires December 31 of each year.

(c) All nursery stock or collected plants in the custody of any dealer shall be subject to inspection at any time and shall be maintained in certifiable condition. Dealer certificates may be revoked at any time for cause. Records shall be kept of all plant acquisitions and shall be made available to any inspector of the North Carolina Department of Agriculture and Consumer Services upon request.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Temporary Amendment Eff. November 24, 2003;
Amended Eff. June 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1209 COLLECTED PLANT CERTIFICATE

Persons who dig or gather collected plants must possess a collected plant certificate. To obtain such a certificate, the collector must submit to the Plant Industry Division an application which states where collected plants are to be obtained. Upon a determination by the Division that the proposed collection of plants will comply with all plant pest quarantine rules in this Chapter, and payment of an annual fee of twenty dollars (\$20.00), a collected plant certificate shall be issued. This certificate expires September 30 of each year, but may be revoked sooner for failure to comply with the plant pest quarantine rules in this Chapter. A record of plant collections and sales shall be maintained and shall be made available to any inspector of the North Carolina Department of Agriculture upon request. Nurserymen who also collect plants must have a collected plant certificate in addition to a nursery certificate. This requirement is waived for digging or collection of plants from the National Forest Land on Roan Mountain, Mitchell County, North Carolina.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. August 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1210 INFESTED STOCK IN NURSERY

When nursery stock in the nursery is found by the inspector to be infested with any plant pest, the certificate may not be issued until the infested stock has been treated or destroyed to the extent that the salable stock to be covered by the certificate shall be apparently free of plant pests. The authorized inspector making the inspection may prescribe such treatment as may be necessary and shall require full compliance before issuing a certificate. Should it be necessary for the inspector to make additional visits to the nursery to check compliance with recommended procedure, charges may be assessed for each subsequent visit on the same basis as for the initial inspection.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1211 NORTH CAROLINA NURSERIES

(a) Every carload, box, package or other shipping container of nursery stock or collected plants which is distributed or sold by any person whose place of business is in North Carolina shall be accompanied by a copy of a valid North Carolina nursery certificate or nursery registration certificate or North Carolina nursery dealer certificate, plainly and securely attached unless the shipment bears a shipping tag.

(b) Any shipment of nursery stock which is not accompanied by a valid copy of a nursery certificate, nursery registration certificate, nursery dealer certificate or shipping tag as required is hereby declared to be a public nuisance and may be returned to shipper, destroyed or otherwise disposed of by the inspector without compensation to the consignor, and the consignor will be notified as to the disposition of such shipments.

(c) Out-of-date certificates cannot be revised and used after expiration nor can the date and number of expired copies of certificates be changed and such copies used after expiration of the original certificate. The wording and

form of this copy shall be the same as that of the original certificate furnished by the Department of Agriculture and all copies must be complete, printed in full, with issuance and expiration date and number included.

(d) At the discretion of the enforcing agency any holder of a plant inspection certificate, nursery registration certificate or nursery dealer certificate may be required to submit a sample of the printed copy for approval.

(e) When satisfactory agreements can be reached, permission may be granted for the printing of permanent certificates or other acceptable facsimiles of the certificate. These permanent certificates will be subject to revocation at any time for cause.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1212 OUT-OF-STATE NURSERIES

Every carload, box, package or other container of nursery stock originating outside North Carolina and being moved into North Carolina for customer delivery or for resale must have attached to it a tag or certificate stating in effect that the nursery stock being moved has been inspected and certified as apparently free from injurious plant pests by an authorized official of the state of origin. The shipment must bear the name and address of the shipper. Any shipment of nursery stock entering North Carolina not meeting these requirements is hereby declared to be a public nuisance and may be returned to shipper, treated, destroyed or otherwise disposed of by the inspector, without compensation to the shipper. The tag or certificate shall in no way be meant to void the requirements of any federal or state plant pest quarantine.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1213 INFESTED PLANTS FROM OUT-OF-STATE

Any plants moving from outside North Carolina for delivery in North Carolina, whether or not included under the definition of nursery stock and whether or not accompanied by a tag or certificate of inspection or dealer certificate, found to be infested with injurious plant pests, is hereby declared a public nuisance and may be returned to the shipper, treated, destroyed or otherwise disposed of by the inspector without compensation to the consignor.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1214 RECIPROCITY AGREEMENT

All out-of-state nurseries and dealers located in states which require a registration fee of North Carolina nurseries and dealers will be charged the same fee for shipping nursery stock into North Carolina as that required of North Carolina nurseries and dealers for shipping into such states. Those states which require no registration fee of North Carolina nurseries and dealers shall not be required to pay a fee for registration and movement of nursery stock into North Carolina. As of this time, no other states require fees of North Carolina nurserymen.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1215 FOREIGN COUNTRIES

- (a) Any person receiving directly or indirectly any nursery stock or other living plants or plant parts, including seed, from foreign countries shall notify the Plant Industry Division of the arrival of such shipment, of the contents thereof, and the name and address of the grower and consignor, and shall hold such shipment in the original container for inspection for a 10-day period unless otherwise directed by an inspector of the Plant Industry Division.
- (b) At the discretion of the Plant Pest Administrator, any nursery stock or other living plants or plant parts, including seeds, may be required to be grown under a state post entry quarantine. When such a situation arises, the Plant Pest Administrator may prescribe the exact conditions of this quarantine.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1216 TRANSPORTATION COMPANIES

- (a) No transportation company or common carrier or agent thereof shall receive for transportation and delivery within North Carolina any carload, box, bale, package or other container of nursery stock from a point outside North Carolina unless such container shall have plainly and securely attached thereto a copy of a certificate of inspection or dealer certificate or shipping tag where applicable, valid at the time the shipment is received, made in favor of the consignor and issued by the authorized official of state of origin.
- (b) No transportation company or common carrier or agent thereof shall receive for transportation and delivery from any point in North Carolina to another point with North Carolina any carload, box, bale, package or other container of nursery stock unless such container shall have plainly and securely attached thereto a copy of a plant inspection certificate, nursery registration certificate, or nursery dealer certificate or shipping tag where applicable, valid at the time the shipment is received, made in favor of the consignor and issued by an inspector.
- (c) If any transportation company or common carrier receives any carload, box, package or other container of plant material from a point outside of North Carolina for delivery in North Carolina or nursery stock from a point within North Carolina for delivery to another point within North Carolina which is not accompanied by a nursery certificate, nursery registration certificate, shipping tag where applicable, they shall immediately notify the North Carolina Department of Agriculture, and shall hold from delivery such container of nursery stock until released by an inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1217 AGENTS AND SALES YARDS TO BE REGISTERED

All nurseries shall list with the Plant Industry Division agents and/or sales yards at the time of inspection or by September 30 of each year. All nursery dealers shall list with the Plant Industry Division their agents by December 31 of each year. No person shall represent himself as an agent of a nursery or nursery dealer without being registered with the Plant Industry Division.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1218 STOP SALE NOTICE

- (a) Any inspector of the North Carolina Department of Agriculture shall have the authority to issue a "Stop Sale Notice" when nursery stock and/or collected plants are found to be or suspected to be in violation of any provisions of these Regulations or any other regulations as adopted under the North Carolina Plant Pest Law. A Notice of Stop Sale Action shall be filled out by the inspector each time a Stop Sale Notice is issued.

(b) It shall be unlawful for any person, after receipt of such "Stop Sale Notice", to obstruct from view or remove such notice from plants or from any location to which attached; or to sell, give away, move or exchange such plants until so authorized by an inspector.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1219 EXEMPTIONS

The Commissioner of Agriculture is hereby authorized to exempt charitable organizations from all fee requirements of these Regulations when conditions indicate that such action is warranted.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1220 CONDITIONS GOVERNING THE MOVEMENT OF NURSERY STOCK

Each shipment of nursery stock and/or collected plants moved from a collected plant regulated area shall be accompanied by a shipping tag which may be issued by an inspector after the plants have been inspected and found apparently free of injurious plant pests. Plants not passing inspection shall be handled or disposed of as directed by the inspector.

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1221 COLLECTED PLANT REGULATED AREAS

*History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Repealed Eff. December 1, 1985.*

02 NCAC 48A .1222 EXPORT CERTIFICATION INSPECTION FEE

Persons requesting inspection of plants or plant products for purposes of obtaining federal export certification shall be charged the same fee charged by the United States Department of Agriculture.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

SECTION .1300 - MOVEMENT FOR SCIENTIFIC PURPOSES

02 NCAC 48A .1301 MOVEMENT FOR SCIENTIFIC PURPOSES

(a) Notwithstanding any other provisions of these rules, plants and plant material may be moved for experimental or scientific purposes provided a scientific permit is securely attached to the container of such articles or to the article itself.

(b) An application for a permit to move regulated articles shall be obtained from:

Plant Industry Division
North Carolina Department of Agriculture
Post Office Box 27647
Raleigh, North Carolina 27611

This application should be returned to the Plant Industry Division for processing.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1302 PROCEDURE FOR ISSUANCE OF PERMIT

- (a) The procedure for processing an application to move regulated articles is as follows:
- (1) application is received and reviewed to see if it is properly completed by plant protection staff;
 - (2) application is forwarded to appropriate area office for review of conditions at the site;
 - (3) application returned to the state office for final review;
 - (4) applicant is notified of acceptance or rejection of application. If accepted the proper number of scientific permits are issued.
- (b) Decisions on acceptance or rejection of applications for movement of regulated articles for scientific purposes are based on the following criteria;
- (1) pest risk hazard;
 - (2) safeguards against spread which can be applied,
 - (3) conditions under which the pest or regulated article is to be held,
 - (4) amount of material involved,
 - (5) biological conditions in the area in which the regulated article is to be moved,
 - (6) method of packaging and method of shipment to be employed,
 - (7) use for which the regulated article is to be applied.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .1400 - FORMS

02 NCAC 48A .1401 DESIGNATIONS

The forms used by the Plant Protection Section in plant pest activities will be known by the following title and numerical designations:

- (1) Limited Permit--PP1;
- (2) Certificate--PP2;
- (3) Application for Permit to Move Regulated Articles--PP3;
- (4) Scientific Permit--PP4;
- (5) Plant Pest Quarantine Compliance Agreement--PP5;
- (6) Nursery Dealer Certificate--PP6;
- (7) Collected Plant Certificate--PP7;
- (8) Stop Sale Notice--PP8;
- (9) Nursery and Collected Plant Inspection Report--PP9;
- (10) Plant Material Shipping Tag--PP10;
- (11) Application To Import Tobacco Plants--PP11;
- (12) Nursery Registration Certificate--PP12;
- (13) Plant Inspection Certificate--PP13;
- (14) Notification Of the Intent To Import Vegetable Plants--PP14.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420; Eff. January 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1402 FORM PP1

(a) Form PP1 is the permit issued for articles contained in a shipment which meets the requirements of all North Carolina plant pest quarantines. The following information is required:

- (1) date issued;
 - (2) void after;
 - (3) shipped by;
 - (4) shipped from;
 - (5) consigned to;
 - (6) vehicle identification.
- (b) Issuance of the permit requires the quantity and article identification.
- (c) The permit must be signed by an inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1403 FORM PP2

Form PP2 is issued certifying the articles under all applicable state plant pest quarantines.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1404 FORM PP3

- (a) Form PP3 is the application for a permit to move regulated articles.
- (b) The following information is required of the applicant:
- (1) scientific name or type of material;
 - (2) number of units or specimens;
 - (3) origin;
 - (4) usual host of organism if applicable;
 - (5) name of host which will accompany organism if applicable;
 - (6) total number of parcels;
 - (7) destination;
 - (8) date of arrival or movement;
 - (9) method of shipment;
 - (10) method of packaging;
 - (11) intended use;
 - (12) precautions to be used to prevent dissemination;
 - (13) name and address of applicant;
 - (14) agreement between applicant to handle and dispose of any portion of above shipment as prescribed by the Plant Industry Division.
- (c) Upon approval the permit is issued to the applicant stipulating any additional conditions and number of permits issued.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1405 FORM PP4

- (a) Form PP4 is a permit issued for the movement of articles for scientific purposes.
- (b) The following information is required:
- (1) permit valid until date specified;
 - (2) contents;
 - (3) date of issue.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;

Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1406 FORM PP5

Form PP5 is a plant pest quarantine compliance agreement which requires the following information:

- (1) name, address, and location of establishment;
- (2) applicable quarantines.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1407 FORM PP6

(a) Form PP6 is required by any person who does not maintain a regular nursery but deals in the selling of nursery stock.

(b) The annual fee for a nursery dealer certificate is ten dollars (\$10.00).

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1408 FORM PP7

(a) Form PP7 is a certificate issued upon approval by the Plant Industry Division to a person who digs or gathers collected plants.

(b) A payment of an annual fee of one dollar (\$1.00) is required before issuance of this certificate.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1409 FORM PP8

(a) Form PP8 is a stop sale notice tag which can be issued when plants or other regulated commodities are found to be in violation of any requirements of 02 NCAC 48A.

(b) The sale, barter, exchange, or giving away of plants or other articles listed on this tag is forbidden. The tag lists the following information:

- (1) kind and quantity of plants or articles;
- (2) reason for stop sale;
- (3) date and signature of inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1410 FORM PP9

(a) Form PP9 is a nursery and collected plant inspection report to accompany each shipment of nursery stock and collected plants that is moved from a collected plant regulated area.

(b) Shipment must have been previously inspected and be apparently free of injurious plant pests.

(c) The report lists the following information:

- (1) specific nursery stock to be moved;
- (2) signature of inspector and date inspected;
- (3) void date.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1411 FORM PP10

- (a) Form PP10 is a plant material shipping tag for the same purpose of shipment described in 02 NCAC 48A .1410.
- (b) This tag can be used in lieu of PP9 for general plant certification.
- (c) This tag can also be used for certification of plant material where applicable under any other Sections of 02 NCAC 48A.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1412 FORM PP11

- (a) Form PP11 is an application for a permit to import tobacco plants from an out-of-state transplant grower.
- (b) The following information is required of the applicant:
 - (1) name and address of applicant;
 - (2) planting location in North Carolina;
 - (3) number of plants to be purchased;
 - (4) approximate date of importation;
 - (5) name and address of transplant grower;
 - (6) reason for making application to import tobacco plants;
 - (7) agreement between the applicant and the Plant Industry Division, North Carolina Department of Agriculture of the arrival of any imported plants that they may be inspected and is aware that the plants may be ordered destroyed or returned to the transplant grower or the permit revoked at any time if it is determined that the plants do not meet the standards of the tobacco plant regulation or that false information has been given on the application.
- (c) Upon approval a signed copy of the application by the Plant Pest Administrator, Plant Industry Division, serves as a permit and is returned to the tobacco producer.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1413 FORM PP12

- (a) Form PP12 is a certificate issued after a registered nursery has submitted their name, address, telephone number, and acreage to the Plant Protection Section. A registered nursery is less than one acre in size and does not ship stock out-of-state.
- (b) The annual fee for registration is six dollars (\$6.00).

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1414 FORM PP13

Form PP13 is a certificate issued after nursery stock in a certified nursery has been inspected and found apparently free of injurious plant pests and a fee based on acreage is paid. This certificate is required of all nurseries in the state that are over one acre in size or ship nursery stock out of the state.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;

Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1415 FORM PP14

Form PP14 is a notification of the intent to import certain vegetable plants from an out-of-state transplant grower.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1416 COPIES AND SUBMISSIONS OF FORMS

Copies of forms may be obtained from and completed forms may be submitted to the following address:

Plant Protection Section
Plant Industry Division
North Carolina Department of Agriculture
Post Office Box 27647
Raleigh, North Carolina 27611

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .1500 - GYPSY MOTH

02 NCAC 48A .1501 DEFINITIONS

For the purposes of this Section, the following shall apply:

- (1) Associated Equipment. Articles associated with mobile homes and recreational vehicles, such as, but not limited to, awnings, tents, outdoor furniture, trailer blocks, and trailer skirts;
- (2) Certificate. A document issued or authorized to be issued by an inspector to allow the movement of regulated articles to any destination;
- (3) Compliance Agreement. A written agreement between a person engaged in growing, handling, or moving regulated articles, and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with the requirements of the compliance agreement;
- (4) Exemptions. Conditions contained in these Regulations which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions;
- (5) Hazardous Recreational Vehicle Site. Any site where a recreational vehicle is, or may be parked, and it is determined in the professional judgment of an inspector that such site harbors populations of gypsy moths that could be spread by movement of recreational vehicles or associated equipment;
- (6) Infestation:
 - (a) The presence of gypsy moths based on the trapping of male moths in such a pattern which indicates the establishment of a reproducing population; or
 - (b) The detection of any other life stage of the gypsy moth through visual inspection in a sufficient population to present a regulatory hazard; however, it does not include the presence of life stages of the gypsy moth not established in the wild which are found as a result of hitchhiking on transitory means of conveyance;
- (7) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine;
- (8) Mobile Home. Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business;

- (9) Permit. A document issued or authorized to be issued by an inspector to allow the movement of noncertified regulated articles to a specified destination for particular handling, utilization, or processing, or for treatment;
- (10) Gypsy Moth. The live insect, *Lymantria dispar* Linnaeus, in any life stage (egg, larva, pupa, adult);
- (11) Recreational Vehicles. Highway vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as a temporary place of dwelling;
- (12) Regulated Areas. Any counties or parts of counties in the State of North Carolina listed or provided for in these rules;
- (13) Outdoor Household Articles. Articles associated with a household that have been kept outside the home such as outdoor furniture, barbecue grills, dog houses, boats, hauling trailers, garden tools, tents, and awnings;
- (14) Scientific Permit. A document issued by the North Carolina Department of Agriculture, Plant Industry Division to authorize the movement of regulated articles to a specified destination for scientific purposes.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1502 REGULATED ARTICLES

The following articles are regulated under the provisions of this Section:

- (1) the gypsy moth (*Lymantria dispar* Linnaeus) in any living stage of development;
- (2) trees with roots, and shrubs with roots and persistent woody stems, except if greenhouse grown throughout the year;
- (3) logs and pulpwood, except if moved to a mill operating under a compliance agreement;
- (4) firewood (unless moved as an outdoor household article);
- (5) mobile homes and associated equipment;
- (6) recreational vehicles and associated equipment (unless moving as an outdoor household article), moving from a hazardous recreational vehicle site when the person in charge of the site has been notified;
- (7) cut Christmas trees or trees without roots;
- (8) any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth infestation and the person in possession thereof has been so notified.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1503 REGULATED AREAS

The following areas are regulated areas under the provisions of this Section:

- (1) any area outlined in 7 C.F.R. 301.45;
- (2) Currituck - The entire county;
- (3) that area of Dare County east of Currituck Sound and north of state road 1208 (Kitty Hawk Road) to Currituck County line;
- (4) other areas - Any other areas in the State of North Carolina now known or hereafter found infested with gypsy moth, such other areas to become immediately subject to these rules when the property owner or his agent is notified by the Plant Pest Administrator through direct written notice to those concerned. Such newly infested areas shall be presented at least one time annually to the Board of Agriculture and said board can rescind or confirm such regulated areas.

History Note: Authority G.S. 106-420;

Eff. December 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1504 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES

The following conditions govern the movement of regulated articles:

- (1) Certificate or permit - Unless exempted, a certificate or permit must accompany the movement of regulated articles from any regulated area into or through any point outside thereof. Regulated articles originating outside of a regulated area may be moved without a certificate or permit if the point of origin is clearly indicated on the shipping document accompanying the regulated articles provided, in the case of articles moved through a regulated area, the regulated articles are protected from infestation, while within regulated areas, to the satisfaction of an inspector;
- (2) Issuance of certificates - Certificates may be issued by an authorized inspector for movement of regulated articles under any of the following conditions:
 - (a) In the judgement of the inspector, they have not been exposed to infestations;
 - (b) They have been examined by the inspector and found to be free of gypsy moths;
 - (c) They have been treated to destroy gypsy moths under the direction of the inspector and according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;
 - (d) Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moths would not be transmitted by movement of the article.
- (3) Issuance of permits - Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, use, processing, or treatment;
- (4) Federal certificates or permits - Federal certificates or permits can be used on all regulated articles interchangeably with North Carolina Department of Agriculture, Plant Industry Division Certificates;
- (5) Use of certificates or permits with shipments - All regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or permit to the regulated article will not be required. Certificates or permits attached to the invoice, waybill, or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested;
- (6) Assembly of articles for inspection - Persons (other than those authorized to issue certificates or permits), who desire to move interstate or intrastate any regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, (should be no less than 48 hours before the desired movement), request an inspector to examine the articles prior to movement. Such articles shall be assembled at such point and in such manner as the inspector designates to facilitate inspection.

History Note: Authority G.S. 106-420;

Eff. December 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1505 COMPLIANCE AGREEMENT

Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles. A compliance agreement shall specify safeguards necessary to prevent spread of the gypsy moth, such as disinfestation practices or application of chemical materials.

History Note: Authority G.S. 106-420;

Eff. December 1, 1988;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1506 CANCELLATION OF CERTIFICATES/PERMITS/COMPLIANCE AGREEMENTS

Any certificate, permit, or compliance agreement which has been issued or authorized may be cancelled by the inspector if he determines that the holder has not complied with conditions for use.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1507 INSPECTION AND DISPOSAL OF REGULATED ARTICLES

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles, outdoor household articles and gypsy moths as provided in the North Carolina Plant Pest Law.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1508 SHIPMENT FOR SCIENTIFIC PURPOSES

Any living stage of the gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the North Carolina Department of Agriculture, and in accordance with any conditions which may be required in the permit. The permit shall be securely attached to the outside of the shipping container.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

SECTION .1600 - PHYTOPHAGOUS SNAILS

02 NCAC 48A .1601 DEFINITIONS

As used in this Section:

- (1) Commissioner. The Commissioner of Agriculture for the State of North Carolina;
- (2) Compliance Agreement. A written agreement between an individual or concern dealing in or moving regulated articles and the North Carolina Department of Agriculture, Plant Industry Division, wherein the former agrees to comply with conditions specified in the agreement to prevent the establishment or dissemination of phytophagous snails;
- (3) Infestation. A property on which phytophagous snails have been found, or a property onto which regulated material has been moved for any purpose from an infested property, and regulated or host material which has been exposed to, come in physical contact with, or been stored where the pest has been found. Such properties shall be considered infested until the Plant Pest Administrator is of the opinion that phytophagous snails do not exist on said property;
- (4) Inspector. Any authorized employee of the North Carolina Department of Agriculture, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this quarantine and regulations supplemental thereto;
- (5) Pest and/or Phytophagous Snails. The following snails in any stage of development:
 - (a) brown garden snail (*Helix aspera* Muller);
 - (b) giant South American snail (*Megalobulimus oblongus* Muller);
 - (c) white garden snail (*Theba pisana* Muller);
 - (d) giant African snail (*Achatina* spp.);
 - (e) any other plant-feeding snail which may be determined by the Commissioner to be injurious to North Carolina agriculture;

- (6) Plant Material. All wild, cultivated, or greenhouse grown plants, trees, shrubs, vines, bulbous plants and roots, grafts, scions, and buds. Included are annual plants, cut flowers, and decorative plants without roots;
- (7) Quarantined or Regulated Area. Any portion of a state in which phytophagous snails are found, or has been placed under quarantine on account of same;
- (8) Regulated Articles. Nursery stock, other plant material, and articles capable of transporting phytophagous snails, including used containers and trash.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1602 REGULATED AREAS

Movement of nursery stock, other plant material and articles capable of transporting phytophagous snails into North Carolina from the following areas is regulated:

- (1) All infested areas in the states of Arizona, California, Hawaii, New Mexico, Oregon, Texas, and Washington.
- (2) Any other areas hereafter found to be infested with phytophagous snails.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Amended Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1603 HELICULTURE PROHIBITED

Raising, maintaining and/or holding phytophagous snails is prohibited.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1604 MOVEMENT PROHIBITED

Movement of phytophagous snails in any stage of development is prohibited except for scientific purposes when moved under provisions of federal or state regulations.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1605 DISPOSITION

Regulated articles from quarantined areas that are infested with phytophagous snails or have been exposed to infestation by the pest may be ordered destroyed or fumigated by the Commissioner in accordance with G.S. 106-421 at the expense of the owner. The Commissioner or his agent may allow regulated articles to move in sealed vehicles to designated safe markets under limited permit.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1606 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES

Regulated articles shall not be moved into, within, or from North Carolina nor shall they be processed, planted or propagated except under conditions stipulated by the Commissioner or his agent. Such conditions shall be consistent with the quarantine requirements of the exterior agency and shall be designed to prevent establishment or dissemination of phytophagous snails in North Carolina. Regulated articles shall be accompanied by valid certificates or inspection tags issued by the state of origin when such certificates are required under the quarantine or regulations of such agency.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1607 WAIVER OF REQUIREMENTS

When it has been determined by the Commissioner or his agent that certification or treatments are no longer necessary or desirable under the specified conditions of these regulations, he may waive the certification and/or treatment requirements on specified articles, products and items.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1608 COMPLIANCE AGREEMENT

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and dissemination of phytophagous snails and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

History Note: Authority G.S. 106-65.45; 106-65.46; 106-284.18; 106-420;
Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

SECTION .1700 - STATE NOXIOUS WEEDS

02 NCAC 48A .1701 DEFINITIONS

The following definitions shall apply to this Section:

- (1) Administrator. The Plant Pest Administrator of the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division;
- (2) Board. The North Carolina Board of Agriculture;
- (3) Certificate. A document issued by a specialist to allow the movement of noncontaminated regulated articles to any destination;
- (4) Class A. Any noxious weed on the Federal Noxious Weed List or any noxious weed that is not native to the state, not currently known to occur in the state, and poses a threat to the state;
- (5) Class B. Any noxious weed that is not native to the state, is present in fewer than 20 counties statewide, and poses a threat to the state;
- (6) Class C. Any noxious weed not meeting the definition of a Class A or Class B noxious weed for which the Commissioner has determined that eradication is not feasible;
- (7) Commissioner. The Commissioner of the North Carolina Department of Agriculture and Consumer Services or his authorized representative;
- (8) Compliance Agreement. A written agreement between a person engaged in growing, handling, or moving regulated articles, and the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division;
- (9) Infestation. The presence of a noxious weed in any stage of development;

- (10) Noxious Weed. Any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health;
- (11) Limited Permit. A document issued by a specialist to allow the movement of noncertified regulated articles to a specified destination for special handling, utilization, or processing, or for treatment;
- (12) Regulated Article. Any noxious weed or any article described in this Section which is capable of carrying a noxious weed;
- (13) Regulated Area. Any state or territory or any portion thereof of the United States described in this Section which is infested with a noxious weed;
- (14) Scientific Permit. A document issued by the Administrator to authorize the movement of regulated articles to a specified destination for scientific purposes;
- (15) Specialist. Any authorized employee of the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this Section.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Amended Eff. January 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1702 NOXIOUS WEEDS

(a) Class A Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class A Noxious Weeds:

- (1) All weeds listed in 7 C.F.R. 360.200 which is hereby incorporated by reference including subsequent amendments and editions. A full list of Federal Noxious Weeds may be found at: http://www.access.gpo.gov/nara/cfr/waisidx_07/7cfr360_07.html;
- (2) Elodea, African – Lagarosiphon spp. (all species);
- (3) Fern, Water – Salvinia spp. (all except *S. minima*);
- (4) Floating Heart, Crested – *Nymhoides cristata*;
- (5) Floating Heart, Yellow – *Nymphoides peltata*;
- (6) Stonecrop, Swamp – *Crassula helmsii*;
- (7) Water-chestnut – *Trappa* spp.; and
- (8) Water Snowflake – *Nymphoides indica*.

(b) Class B Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class B Noxious Weeds:

- (1) Bushkiller – *Cayratia japonica* Thunb.;
- (2) Fieldcress, Yellow – *Rorippa sylvestris* (L.) Bess.;
- (3) Lythrum – Any *Lythrum* species not native to North Carolina;
- (4) Mile-a-Minute – *Persicaria perfoliata* (L.) H. Gross;
- (5) Puncturevine – *Tribulus terrestris* L.;
- (6) Thistle, Canada – *Cirsium arvense* (L.) Scop.;
- (7) Thistle, Musk – *Carduus nutans* L.;
- (8) Thistle, Plumeless – *Carduus acanthoides* L.;
- (9) Vitex, Beach – *Vitex rotundifolia* L.f.;
- (10) Watermilfoil, Eurasian – *Myriophyllum spicatum* L.; and
- (11) Waterprimrose, Uruguay – *Ludwigia hexapetala* (Hook & Arn.) Zardini, Gu & Raven.

(c) Class C Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class C Noxious Weeds: Bittersweet, Oriental - *Celastrus orbiculatus* Thunb.

*History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Amended Eff. October 1, 2011; February 1, 2009; April 1, 2003; February 1, 1996; June 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.*

02 NCAC 48A .1703 REGULATED AREAS

(a) Except as permitted in 02 NCAC 48A .1705 and .1706, the following is prohibited:

- (1) The movement of Beach Vitex (*Vitex rotundifolia* L.F.) or any regulated article infested with Beach Vitex from the following counties: Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow, Pender;
- (2) The movement of Bushkiller (*Cayratia japonica* Thunb.) or any regulated article infested with Bushkiller from the following counties: Davidson, Forsyth, Mecklenburg;
- (3) The movement of Canada Thistle [*Cirsium arvense* (L.) Scop.] or any regulated article infested with Canada Thistle from the following counties: Ashe, Avery, Haywood, Mitchell, Northampton, Yancey;
- (4) The movement of Class A, B, or C noxious weeds or any regulated article infested with Class A, B, or C noxious weeds into North Carolina;
- (5) The movement of a Class A noxious weed or any regulated article infested with any Class A noxious weed is prohibited within the state;
- (6) The movement of Eurasian Watermilfoil (*Myriophyllum spicatum* L.) or any regulated article infested with Eurasian Watermilfoil from the following counties: Halifax, Northampton, Perquimans, Tyrrell, Warren;
- (7) The movement of Mile-a-Minute (*Persicaria perfoliata* (L.) H. Gross) or any regulated article infested with Mile-a-Minute from that portion of Alleghany County East of Highway 113 beginning at the Virginia border to the junction with Highway 18 and Northwest of Highway 18 beginning at the junction with Highway 113 all the way to the junction with U.S. Highway 21 in Sparta and West of Highway 21 to the North Carolina border with Virginia;
- (8) The movement of Musk Thistle (*Carduus nutans* L.) or any regulated article infested with Musk Thistle from the following counties: Buncombe, Cleveland, Chatham, Gaston, Henderson, Lincoln, Madison, Randolph, Rowan, Rutherford;
- (9) The movement of Plumeless Thistle (*Carduus acanthoides* L.) or any regulated article infested with Plumeless Thistle from the following counties: Haywood, Jackson, Madison, Watauga;
- (10) The movement of Puncturevine (*Tribulus terrestris* L.) or any regulated article infested with Puncturevine from the following county: New Hanover;
- (11) The movement of any *Lythrum* species not native to North Carolina or any regulated article infested with any nonnative *Lythrum* species from the following counties: Forsyth, Watauga;
- (12) The movement of Uruguay Waterprimrose [*Ludwigia hexapetala* (Hook & Arn.) Zardini, Gu & Raven] or any regulated article infested with Uruguay Waterprimrose from the following counties: Bladen, Brunswick, Columbus, Durham, Granville, Hyde, New Hanover, Orange, Rowan, Wake, Warren;
- (13) The movement of Yellow Fieldcress [*Rorippa sylvestris* (L.) Bess.] or any regulated article infested with Yellow Fieldcress from the following county: Orange;
- (14) The movement of Oriental Bittersweet (*Celastrus orbiculatus* Thunb.) or any regulated article infested with Oriental Bittersweet from the following counties: Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Wilkes, Yancey;
- (15) The sale or distribution of any Class A or B noxious weed; and
- (16) The sale or distribution of any Class C noxious weed outside a regulated area.

(b) Other regulated areas. The Commissioner shall designate as a regulated area any state or portion of a state in which there is reasonable cause to believe that a noxious weed exists, and there is a need to prevent its introduction, spread or dissemination in North Carolina.

History Note: Authority G.S. 106-420; 106-421;
Eff. December 1, 1991;
Amended Eff. October 1, 2011; February 1, 2009; January 1, 2005; April 1, 2003; June 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1704 REGULATED ARTICLES

The following articles are regulated under the provisions of this Section:

- (1) Soil, compost, peat, humus, muck, decomposed manure, sand, and gravel, either separately or mixed with other articles; except that potting soil commercially prepared and free of noxious weed seed, packaged and shipped in original containers is not a regulated article;
- (2) Nursery stock including growing media (houseplants grown in a home and not for sale are excluded);
- (3) Grass sod;
- (4) Used mechanized soil-moving equipment, cultivating equipment and harvesting machinery, except when decontaminated and cleaned free of soil;
- (5) Hay, straw, or other material of a similar nature;
- (6) Any means of conveyance of any noxious weed when such conveyance is determined by the Administrator to present a hazard of spread of noxious weeds and the person in possession of such conveyance has been so notified.

History Note: Authority G.S. 106-420;
 Eff. December 1, 1991;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1705 CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES

- (a) A certificate or permit must accompany the movement of regulated articles from regulated areas into North Carolina.
- (b) A certificate or permit must accompany the movement of regulated articles from a regulated area in North Carolina to a non-regulated area in North Carolina.

History Note: Authority G.S. 106-420;
 Eff. December 1, 1991;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1706 ISSUANCE OF CERTIFICATES AND LIMITED PERMITS

- (a) Certificates may be issued by a specialist for the movement of regulated articles under the following conditions:
 - (1) In the judgment of the specialist, they have not been exposed to infestations;
 - (2) They have been examined by the specialist and found to be free of noxious weeds;
 - (3) They have been treated under the direction of the specialist with control measures effective under the conditions applied;
 - (4) They have been grown, produced, stored, or handled in such manner that, in the judgment of the specialist, designated noxious weeds would not be transmitted by movement of the article.
- (b) Limited permits may be issued by a specialist for the movement of noncertified regulated articles to specified destinations for limited handling, utilization, processing or treatment when the specialist determines no hazard of spread of noxious weeds exists.
- (c) Scientific permits may be issued by the Administrator to allow the movement of noxious weeds in any living stage and any regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Plant Pest Administrator. Scientific permits are issued pursuant to 02 NCAC 48A .1300.
- (d) Certificates or limited permits, which ensure the pest-free premises for the following:
 - (1) Nurseries growing seedlings for afforestation or reforestation purposes; and
 - (2) Sod farms producing sod for establishment of ornamental turf,

shall be issued by an inspector for intrastate and interstate shipments of conifer seedlings, hardwood seedlings and sod. To ensure pest-free premises, forest seedling nurseries and sod farms designated for crop production may be fumigated or treated with a fumigant such as methyl bromide or other pesticide registered with the United States Environmental Protection Agency. Each shipment originating from another state shall be accompanied by a certificate or limited permit issued by the state of origin to verify fumigation or other treatments.

- (e) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles shall sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent

movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles, as may be required by the specialist.

History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Amended Eff. April 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1707 CANCELLATION OF CERTIFICATES AND LIMITED PERMITS

Any certificate, limited permit, scientific permit, or compliance agreement which has been issued or authorized may be canceled by the specialist if he determines that the holder has not complied with conditions for its use.

History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.

02 NCAC 48A .1708 INSPECTION AND DISPOSAL

Any specialist is authorized to stop and inspect, any person or means of conveyance moving within or from the State of North Carolina upon probable cause to believe that such means of conveyance or articles are infested with a noxious weed; and, such specialist is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Rules.

History Note: Authority G.S. 106-420;
Eff. December 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 24, 2019.