

EXPRESS TERMS

1 NYCRR is amended by adding thereto a new Part 142, to read as follows:

PART 142. EXTERIOR QUARANTINE OF SPOTTED LANTERNFLY (*LYCORMA DELICATULA*)

Part 142.1 Definitions.

Part 142.2 Quarantine area.

Part 142.3 Regulated articles.

Part 142.4 Restrictions on movement of regulated articles originating from or moved through a quarantine area, into the State of New York.

Part 142.5 Conditions governing the issuance of a certificate of inspection.

Part 142.6 Inspection and disposition of shipments.

Part 142.7 Other laws and regulations.

§142.1 Definitions.

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

- (a) *AML*. The Agriculture and Markets Law.
- (b) *Certificate of inspection*. A valid form issued by the certifying authority of a state, certifying that a regulated article may be moved into the State of New York, pursuant to the provisions of this Part.
- (c) *Certifying Authority*. A State Plant Regulatory Official (SPRO) or an individual authorized by a SPRO to issue a certificate of inspection.
- (d) *Commissioner*. The Commissioner of the Department of Agriculture and Markets of the State of New York, or his or her duly authorized representative.
- (e) *DEC*. The Department of Environmental Conservation of the State of New York.

- (f) *Department*. The Department of Agriculture and Markets of the State of New York.
- (g) *Firewood*. Wood, cut or not cut, split or not split, regardless of length, which is either in a form and size appropriate for use as fuel, or intended for use as fuel. Firewood does not include: (1) kiln dried dimensional lumber; (2) wood that has been chipped; and (3) logs or wood being transported to or possessed by the following operations and facilities for use in their primary manufacturing process:
- (i) sawmills for dimensional lumber;
 - (ii) pulp and/or paper mills;
 - (iii) wood pellet manufacturing facilities;
 - (iv) plywood manufacturing facilities;
 - (v) wood biomass-using refineries or power plants;
 - (vi) re-constituted wood or wood composite product manufacturing plants;
- and
- (vii) facilities treating firewood in accordance with Department regulations.
- (h) *Inspector*. An inspector of the Department, or cooperator from DEC or the United States Department of Agriculture (USDA), when authorized by the Department to act in that capacity.
- (i) *Move; movement*. Shipped, offered or received for shipment, carried, transported, or relocated into or through any area of the State of New York.
- (j) *Nursery stock*. All trees, shrubs, plants and vines and parts thereof.
- (k) *Person*. An individual, organization, corporation or partnership, public authority, county, town, village, city, municipal agency or public corporation, or any other legal entity other than the DEC or the Department and its respective authorized agents.
- (l) *Spotted lanternfly or SLF*. The insect known as Spotted lanternfly, *Lycorma delicatula*, in any life stage.

(m) *State*. One of the fifty constituent political entities of the United States.

(n) *Regulated Article*. An article listed in Section 142.3 of the Part.

§142.2 Quarantine area.

The quarantine area consists of the following counties:

- (a) In the Commonwealth of Pennsylvania, the counties of Berks, Bucks, Carbon, Chester, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, and Schuylkill.
- (b) In the Commonwealth of Virginia, the county of Frederick.
- (c) In the State of New Jersey, the counties of Hunterdon, Mercer, and Warren.
- (d) In the State of Delaware, the county of New Castle.

§142.3 Regulated articles.

The following articles are regulated when originating from, located within, or moved through the area as described in Section 142.2 of this Part:

- (a) Any living life stage of the Spotted lanternfly.
- (b) Brush, debris, bark, or yard waste.
- (c) Landscaping, remodeling, or construction waste.
- (d) Logs, stumps, or any tree parts.
- (e) Firewood of any species.
- (f) Packing materials, such as wood crates or boxes.

- (g) All plants and plant parts including but not limited to nursery stock, green lumber, fruit and produce and other material living, dead, cut, fallen (including stumps), roots, branches, mulch, and composted and uncomposted chips.
- (h) Outdoor household articles, including, but not limited to, recreational vehicles, lawn tractors and mowers, mower decks, grills, grill and furniture covers, tarps, mobile homes, tile, stone, deck boards, mobile fire pits, and any equipment associated therewith, and trucks or vehicles not stored indoors.
- (i) Any other article, commodity, item, or product that has or that is reasonably believed to be infested with or harboring Spotted lanternfly.

§142.4 Restrictions on movement of regulated articles originating from or moved through a quarantine area, into the State of New York.

- (a) No person shall move a regulated article that has originated from a quarantine area into the State of New York unless:
 - (1) such regulated article is accompanied by a certificate of inspection or will be moved into the State of New York for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed in writing by the Department; and
 - (2) such regulated article has been loaded, handled, or shipped in a manner reasonably designed to prevent it from becoming infested with or harboring Spotted lanternfly; and
 - (3) the regulated article is accompanied by a waybill that sets forth its point of origin and intended destination.
- (b) No person shall move a regulated article that has not originated from a quarantine area but has moved through a quarantine area, into the State of New York unless:

- (1) such regulated article is accompanied by a waybill that sets forth its point of origin and intended destination; and
- (2) such regulated article has moved directly through a quarantine area without stopping except for refueling and traffic conditions.

§142.5 Conditions governing the issuance of a certificate of inspection.

- (a) The Department will not accept or recognize a certificate of inspection, nor a substantially revised certificate of inspection, unless a copy thereof is furnished to the Department for its approval, prior to use.
- (b) The Department will not accept or recognize a certificate of inspection unless the certificate of inspection provides, and clearly and convincingly indicates, that:
 - (1) (i) The regulated article has been inspected and found to be free of Spotted lanternfly ; or (ii) the regulated article has been treated, fumigated, or processed by an approved method; or (iii) the regulated article has been grown, produced, manufactured, stored, or handled in such a manner that it would be free of Spotted lanternfly; and
 - (2) The regulated article is eligible for unrestricted movement under all other state plant quarantines and regulations.

§142.6 Inspection and disposition of shipments.

- (a) The Department may inspect any container, conveyance, package, or vehicle reasonably believed to contain a regulated article.
- (b) When a regulated article has been moved into the State of New York in violation of the provisions of this Part, an inspector may take such action as deemed necessary to eliminate the danger of introduction and/or spread of the Spotted lanternfly.

(c) If a regulated article is found to be infested with or harboring Spotted lanternfly, such regulated article must be rendered free of infestation without cost to the State of New York.

§142.7 Other laws and regulations.

No provision of this Part relieves any person from the obligation to comply with any other applicable federal, state, county, regional, or local law or regulation.