DEPARTMENT OF AGRICULTURE

Plant Industry Division

QUARANTINE IMPOSED AGAINST ALL LIFE STAGES OF THE JAPANESE BEETLE (POPILLIA JAPONICA) AND HOSTS OR POSSIBLE CARRIERS OF JAPANESE BEETLE PURSUANT TO THE COLORADO PEST CONTROL ACT

8 CCR 1203-21

Part 1. Quarantine Established

A quarantine is hereby established pursuant to section 35-4-110 C.R.S. of the Colorado Pest Control Act against the pest known as Japanese beetle (*Popillia japonica*) a member of the family Scarabaeidae. In the larval stage this pest feeds on the roots of many plants and in the adult stage feeds on the flowers, foliage and fruit of many plants.

Part 2. Applicability of this Quarantine

2.1. This quarantine applies to all persons:

2.1.1. Who import into Colorado any commodity covered in Part 4 from any of the areas under quarantine specified in Part 3.1.

2.1.2. Who transport any commodity covered in Part 4 from any quarantined counties in Colorado specified in Part 3.2 to any area in Colorado not under quarantine.

2.2. For purposes of this quarantine any individual, partnership, limited liability company, corporation, governmental agency or other legal entity that imports a commodity covered under this quarantine into Colorado shall be considered a producer of such commodity.

Part 3. Areas Under Quarantine

3.1. The entire states of Alabama, Alaska, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, Canada.

3.2. The Colorado Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Pueblo, and Weld.

Part 4. Commodities Covered

4.1. All life stages of the Japanese beetle, including eggs, larvae, pupae, and adults; and the following hosts or possible carriers of Japanese beetle:

4.1.1. Soil, growing media, humus, compost, and manure. Soil samples under a federal Compliance Agreement and commercially packaged soil, growing media, humus, compost, manure are exempt;

4.1.2. All plants with roots with the exception of nursery-produced, container-grown plants imported in containers with a diameter of 7 inches or less and with a volume of 252 cubic inches (also known in the trade as a "#1 container") or less, except as provided in Part 4.1.3;

4.1.3. All ornamental grasses and sedges regardless of container size are possible hosts;

4.1.4. Grass sod;

4.1.5. Plant crowns or roots for propagation (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection);

4.1.6. Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection); and

4.1.7. Any other plant, plant part, article or means of conveyance when it is determined by the Colorado Department of Agriculture ("Department") to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation, by Japanese beetle.

Part 5. Restrictions

5.1. All commodities listed in Part 4 are prohibited entry into Colorado or transport from the areas under quarantine specified in Part 3 unless they have the required certification. A listed commodity may be imported into Colorado or transported from an area under quarantine into Colorado provided such shipment fully conforms with the requirements of one of the following options and is accompanied by a certificate issued by an authorized state agricultural official at origin verifying compliance:

5.1.1. Japanese Beetle Nursery Trapping Program – Part 5.2;

5.1.2. Application of Approved Regulatory Treatments – Part 5.3;

5.1.2.1. Dip Treatments – B&B and Container Plants – Part 5.3.1.1;

5.1.2.2. Pre-Harvest Soil Surface Treatments – Part 5.3.2;

5.1.3. Containerized Nursery Stock Accreditation Program – Part 5.4;

5.1.4. Shipment of Sod – Part 5.5;

5.1.4.1. Japanese Beetle Trapping – Part 5.5.1;

5.1.4.2. Japanese Beetle Management. – Part 5.5.2.

5.1.5. Shipment of plants in containers 12" diameter or smaller and any size Ornamental Grasses – Part 5.6;

5.1.5.1. Japanese Beetle Trapping – Part 5.6.1;

5.1.5.2. Japanese Beetle Management – Part 5.6.2;

5.1.5.3. Japanese Beetle free Greenhouse/Screenhouse-Part 5.6.3.

5.1.6. Nursery Certification based on a System Approach to Nursery Certification (SANC) Part 5.7.

5.1.7. The documents of compliance must be kept for a minimum of three years.

5.2. Japanese Beetle Nursery Trapping Program.

5.2.1. Regulated nursery stock produced in nurseries found to be free from Japanese beetle based on the nursery trapping program can be certified for shipment when accompanied by a certificate with the following Additional Declaration (AD): "The plants were produced in a nursery which was found to be free from Japanese beetle (Popillia japonica) based on a nursery trapping program."

5.2.2. To be eligible for certification nursery sites must meet the following criteria:

5.2.2.1. The Japanese beetle-free zone shall be the nursery site per se. A nursery business may have more than one nursery site. Each site may have an independent regulatory status relative to Japanese beetle. It is the duty and responsibility of the nursery to maintain the integrity of the Japanese beetle free zones at all times.

5.2.2.2. To avoid a risk of transshipping Japanese beetle-infested commodities, only commodities certified to be free from Japanese beetle shall be introduced into the nursery.

5.2.2.3. The entire nursery site shall be surveyed using a detection trapping survey at the rate of 49 traps per square mile (1 trap per 13 acres). Traps should be evenly spaced throughout the trapping areas. There shall be a minimum of three (3) traps per site regardless of the size of the nursery site. Traps shall be baited with a lure consisting of a Japanese beetle food lure (phenyl-ethyl propionate: eugenol: geraniol [3:7:3 ratio]) and male sex pheromone, and renewed as often as necessary to maintain trapping efficacy. Traps shall be placed and/or monitored regularly by official regulatory authorities during the period of adult flight. Traps should be checked every two weeks. Records shall be maintained of trap monitoring and all Japanese beetle captures.

5.2.2.4. The survey shall be conducted annually during the adult flight period (June 1 – September 30). If no beetles are captured in the survey, the nursery site meets the criterion. If one or two Japanese beetles are captured, in total, from all traps set for the delimitation survey, the nursery may ship if in the judgment of the

supervising state plant regulatory official in the exporting state, the detection represents an interception rather than a locally established population of Japanese beetle and that a delimitation survey as specified in the Japanese Beetle Harmonization Plan (June 20, 2016) is conducted in the following year. If no Japanese beetles are captured, in total, from all traps in the delimitation survey following a positive find, the nursery site may continue to ship.

5.2.2.4.1. The Japanese Beetle Harmonization Plan (the "Plan"), dated June 20, 2016 and published by the National Plant Board, is hereby incorporated by reference and made a part of these Rules. The incorporated Plan does not include later revisions. Copies of the Plan are available for public inspection during regular business hours at the Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, Colorado 80021. The material incorporated by reference is also available through the National Plant Board at: http://nationalplantboard.org/japanese-beetle-harmonization-plan/.

5.3. Application of Approved Regulatory Treatments.

5.3.1. A state certificate which lists and verifies the treatment used must accompany shipment with the following AD: "The plants were treated to control Japanese beetle according to the criteria for shipment to category 2 states as provided in the Colorado Japanese Beetle quarantine."

5.3.1.1. Dip Treatments - B&B and Container Plants including pot-in-pot production (drench application methods are acceptable only for ornamental grasses in containers less than 12 inches in diameter as provided in Part 5.6.2 .

5.3.1.2. All balled and burlapped, potted and containerized nursery stock with a rootball diameter of 32 inches or smaller are eligible for certification with this option. The potted or balled and burlapped stock must be dipped in an insecticide containing the active ingredients listed in Parts 5.3.1.4 or 5.3.1.5 in accordance with that insecticide's label directions, so as to submerge the entire root ball and all growing media of the container or the root retaining materials into the solution. The submersion time must be a minimum of two (2.0) minutes or until complete saturation occurs, as indicated by the cessation of bubbling whichever time is longer. Upon removal from the solution the plants must be drained in an approved manner.

5.3.1.3. Plants must not be shipped before they are well drained and can be easily handled. Media must be at least 50° F at the time of treatment. The dip treatment targets Japanese beetle larval stages. Growing medium must be of moderate moisture content (not too wet or not too dry) so that the pesticide will adequately penetrate the medium. Treatment must be applied between September 1 and April 15 in southern states and between September 1 and May 1 in the northern states as determined by the appropriate phytosanitary official in the exporting state. During the adult flight period all treated plants must be protected from re-infestation.

5.3.1.4. Chlorpyrifos; or

5.3.1.5. Bifenthrin.

5.3.2. Pre-Harvest Soil Surface Treatments.

5.3.2.1. Balled & burlapped or field-potted plants, harvested from production fields, must be treated, with an insecticide containing the active ingredients listed in Parts 5.3.2.1.1through 5.3.2.1.3.in accordance with that insecticide's label directions before harvest using a band width six (6) inches wider than the actual root ball diameter to be dug. Do not allow the bands in adjacent rows to overlap. Apply May through July with a minimum of eighty-seven (87) gallons of water per acre.

5.3.2.1.1. Imidacloprid;

5.3.2.1.2. Imidacloprid + Cyfluthrin; or

5.3.2.1.3. Thiamethoxam.

5.4. Containerized Nursery Stock Accreditation Program.

5.4.1. Containerized nursery stock can be certified if grown under all of the following conditions. As specified in Part 6, ornamental grasses and sedges, which have been identified as preferred hosts of Japanese beetle, will not be allowed certification under this program. Plants certified under this program must be accompanied by a certificate including the following (or an equivalent) AD: "The plants have been found to be free from Japanese beetle (Popillia japonica) on the basis of a container accreditation program."

5.4.1.1. Above Ground Containers.

5.4.1.1.1. Only containers with a diameter of 16 inches or less and a volume less than 2646 cubic inches are allowed certification under the Containerized Nursery Stock Accreditation Program.

5.4.1.1.2. Only artificial growing media or sterilized soil shall be used and plants for potting must be free of Japanese beetle.

5.4.1.1.3. Potted plants shall be maintained on a material which serves as a suitable ground barrier for Japanese beetle, i.e. gravel, plastic, hard packed clay, etc.

5.4.1.1.4. Certified lots shall be identified and segregated in a manner satisfactory to the phytosanitary official in the exporting state.

5.4.1.1.5. All containers shall be maintained apparently free of weeds.

5.4.1.2. Pot-in-pot production (production of nursery stock in containers (production pots) which are placed inside permanent in-ground containers – i.e. two containers one inside the other) may be certified to be Japanese beetle free under the

Containerized Nursery Stock Accreditation Program if the following conditions are met:

5.4.1.2.1. Only artificial growing media or sterilized soil shall be used and plants for potting must be free of Japanese beetle.

5.4.1.2.2. The permanent in-ground container in which the production pot sits shall provide a ground barrier for Japanese beetle.

5.4.1.2.3. The lip of the permanent in-ground container shall be placed so that 3 – 4 inches of container lip protrudes above the soil surface.

5.4.1.2.4. The surface area surrounding the pot-in-pot containers must be apparently weed free and be maintained with a thick layer (more than 3 inches) of woodchip mulch, gravel, or heavy grade landscape fabric between containers.

5.4.1.2.5. All containers shall be maintained apparently free of weeds and grasses.

5.4.1.2.6. The inner container shall not come in contact with soil and there must be air space between containers.

5.5. Shipment of Sod.

5.5.1. Japanese Beetle Trapping.

5.5.1.1. Sod may be shipped to Colorado from the areas under quarantine specified in Part 3 from sites found to be Japanese beetle-free based on negative detection trapping (as with nurseries) and must be accompanied by a certificate with the following AD: “The turf was produced in a sod farm which was found to be free from Japanese beetle (Popillia japonica) based on a sod farm trapping program.”

5.5.2.Japanese Beetle Management.

5.5.2.1. Sod may be shipped into Colorado from the areas under quarantine specified in Part 3 and must be accompanied by a certificate listing and verifying the treatment used and containing the following AD: “The sod was treated to control Japanese beetle according to the criteria for shipment to category 2 states as provided in the Colorado Japanese Beetle quarantine.”

5.5.2.2. Management activities include (all of the following must be performed):

5.5.2.2.1. Maintenance of a Japanese beetle adulticide program on the sod-farm periphery;

5.5.2.2.2. Removal of Japanese beetle attractive plant species from the immediate growing area (where practical);

5.5.2.2.3. Periodic verification of compliance by regulatory officials; and

5.5.2.2.4. Documentation of treatment with insecticides containing the active ingredients listed in 5.5.2.2.4.1 through 5.5.2.2.4.5 in accordance with the insecticides's label directions. The active ingredients listed below have been recognized as providing effective treatment against Japanese beetle. Sod shall be inspected in the presence of a regulatory officer to determine its freedom from Japanese beetle at the time of harvest (sod cutting). Colorado will accept sod from Japanese beetle infested areas if the sod is inspected and found to be free of Japanese beetle at the time of harvest (sod cutting) or if one of the following pesticide treatments are applied when larvae are most susceptible to treatment (avoid mowing turf until after sufficient irrigation or rainfall has occurred so that uniformity of the application will not be affected). Apply as a curative treatment between April 1 and July 31. Applications must be followed by sufficient irrigation or rainfall within 24 hours to move the active ingredient through the thatch and into the root zone where grubs feed.

5.5.2.2.4.1. Chlorantraniliprole;

5.5.2.2.4.2. Clothianidin;

5.5.2.2.4.3. Halofenozide;

5.5.2.2.4.4. Imidacloprid; or

5.5.2.2.4.5. Thiamethoxam.

5.6. Shipment of plants in containers 12" diameter or smaller and any size Ornamental Grasses

5.6.1. Japanese beetle trapping (containerized or field potted ornamental grasses and plants in containers 12" diameter or smaller).

Ornamental grasses (regardless of container size) and plants in containers 12" diameter or smaller may be shipped to Colorado from the areas under quarantine specified in Part 3 from sites found to be Japanese beetle-free based on negative detection trapping (as with nurseries) and must be accompanied by a certificate with the following AD: "The ornamental grass and/or the plants in containers 12" diameter or smaller were produced in a nursery which was found to be free from Japanese beetle (Popillia japonica) based on a nursery trapping program."

5.6.2. Japanese beetle management (containerized ornamental grasses and plants in containers 12" diameter or smaller only)Field potted ornamental grasses are not eligible for certification under this protocol.

5.6.2.1. Ornamental grasses and plants in containers 12" diameter or smaller may be shipped into Colorado from the areas under quarantine specified in Part 3 and must be accompanied by a certificate listing and verifying the treatment used and

must be accompanied by the following AD: “The ornamental grass or plants in containers 12” diameter or smaller was treated to control Japanese beetle according to the criteria for shipment to Colorado as provided in the Colorado Japanese beetle quarantine.”

5.6.2.2. Management activities include (all of the following must be performed):

5.6.2.2.1. Maintenance of a Japanese beetle adulticide program on the nursery periphery;

5.6.2.2.2. Removal of Japanese beetle attractive plant species from the immediate growing area (where practical);

5.6.2.2.3. Periodic verification of compliance by regulatory officials in the exporting state; and

5.6.2.2.4. Documentation of treatment with insecticides containing the active ingredients listed in 5.6.2.2.4.1.1 through 5.6.2.2.4.1.3 or 5.6.2.2.4.2.1 through 5.6.2.2.4.2.2 in accordance with the insecticide’s label directions. The active ingredients listed below have been recognized as providing effective treatment against Japanese beetle. Ornamental grasses shall be inspected in the presence of a regulatory officer in the exporting state to determine its freedom from Japanese beetle. Colorado will accept ornamental grasses from Japanese beetle infested areas if one of the following pesticide treatments are applied when larvae are most susceptible to insecticide application.

5.6.2.2.4.1. Drench treatments – plants in containers 12” diameter or smaller.

5.6.2.2.4.1.1. Imidacloprid;

5.6.2.2.4.1.2. Bifenthrin; or

5.6.2.2.4.1.3. Thiamethoxam.

5.6.2.2.4.1.4. Potting media used must be sterile and soilless. Containers must be clean. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. Treat just before Japanese beetle flight season (June 1 or as determined by the appropriate phytosanitary official in the exporting state.) Apply tank mix as a drench to wet the entire surface of the potting media. Avoid excessive irrigation following treatment to reduce leaching of active ingredient. During the adult flight season, as determined by the appropriate phytosanitary official in the exporting state, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection. If the containers are

exposed to a second flight season they must be retreated.

5.6.2.2.4.2. Dip treatments – container plants 32" in diameter or smaller:

5.6.2.2.4.2.1. Chlorpyrifos; or

5.6.2.2.4.2.2. Bifenthrin.

5.6.2.2.4.2.3. The potted stock must be dipped so as to submerge the entire root ball and growing media of the container or the root retaining materials into the solution. The submersion time should be a minimum of two (2.0) minutes and until complete saturation occurs, as indicated by the cessation of bubbling.

5.6.2.2.4.2.4. Plants should not be shipped before they are well drained and can be easily handled. Media must be at least 50° F at the time of treatment. The dip treatment targets Japanese beetle larval states. Growing medium must be of moderate soil moisture content (not too wet or not too dry) so that pesticide will adequately penetrate the medium. Treatment must be applied between September 1 and April 15 in southern states and between September 1 and May 1 in northern states as determined by the appropriate phytosanitary official in the exporting state. During the adult flight period all treated plants must be protected from re-infestation.

5.7. Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse.

5.7.1. Ornamental grasses (regardless of container size) may be shipped to Colorado or transported from the areas under quarantine specified in Part 3 from sites found to be Japanese beetle-free based on production in an approved japanese Beetle free Greenhouse/Screenhouse and must be accompanied by a certificate with the following AD: "Production in an approved Japanese Beetle-free greenhouse/screenhouse." The regulated article must be maintained within the greenhouse/screenhouse during the entire adult flight period; during the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles cannot gain entry.

5.8. Nursery Certification based on a Systems Approach to Nursery Certification

5.8.1. Regulated nursery stock produced in nurseries found to be free from Japanese beetle based on a systems approach can be imported into Colorado or transported from the areas under quarantine specified in Part 3 when certified by the state of origin's Department of Agriculture and accompanied by a certificate with the following AD: "The plants were produced in a nursery that was found to be free from Japanese beetle (Popillia japonica) based on a SANC program."

5.8.2. To be eligible for SANC designation under this provision nursery sites must meet the following criteria:

5.8.2.1. Only artificial growing media or sterilized soil shall be used for potting; field dug plants must be free of Japanese beetle.

5.8.2.2. The nursery must enter into a SANC compliance agreement that is approved by the Colorado Department of Agriculture.

5.8.2.3. The compliance agreement must identify critical control points and appropriate best management practices ("BMPs") for each control point and must be mutually agreed upon between the nursery and the Colorado Department of Agriculture.

5.8.2.4. The certified SANC nursery must be inspected quarterly to confirm compliance by the Department of Agriculture in the state in which the nursery is located.

Part 6. Exceptions

Upon written request, and upon investigation and finding that unusual circumstances exist justifying such action, the Colorado Department of Agriculture may issue a permit allowing entry into this state of commodities covered without meeting the requirements of Part 5. However, all conditions specified in the permit shall be met before such permit will be recognized.

Part 7. Privately-owned house plants

Notwithstanding the requirements of Part 5, the Department may allow privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle to be brought into this state without meeting the requirements of Part 5. Contact the Colorado Department of Agriculture for information: Director, Plant Industry Division, Colorado Department of Agriculture.

Part 8. Violation of Quarantine

All covered commodities described in Part 4 of this rule found to be in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the Commissioner. Removal from the state, destruction or treatment of such commodity shall be performed at the expense of the producer, or their duly authorized agent.

Any violations of this quarantine are subject to a civil penalty, as determined by the Commissioner. Pursuant to Section 35-4-114.5, C.R.S., the maximum penalty shall not exceed one thousand dollars per violation. Each day the violation continues shall constitute a separate violation.

Part 9. Inspections and Investigations

The Division of Plant Industry of the Colorado Department of Agriculture shall conduct any inspections necessary to ensure compliance with this quarantine and investigations of all alleged violations of the quarantine. In accordance with Section 35-4-112 C.R.S. Except as provided in Section 35-4-107, the Commissioner or his designees are authorized, upon consent of the producer or its authorized agent or upon obtaining an administrative search warrant, to enter upon or into any premises, land, buildings, or

other places of business during reasonable business hours for the purpose of carrying out the provisions of the article and this quarantine.

Part 10.00 Costs

The actual costs for inspections, investigations and any other activities related to control and eradication measures such as destruction or treatment for enforcement of the quarantine shall be charged to the producer at a rate of $34 an hour plus 25 cents per mile.

Parts 11. – 12. Reserved

Part 13. Statements of Basis, Specific Statutory Authority and Purpose

13.1. Adopted November 19, 2009 – Effective December 30, 2009

Statutory Authority

This Quarantine is imposed pursuant to the Pest Control Act, § § 35-4-110, C.R.S. (2009).

Purpose

The purpose of this Quarantine is to protect Colorado by reducing the introduction of Japanese beetle (*Popillia japonica*) into Colorado. Reduction of Japanse beetle introductions will reduce damage to susceptible landscape plants and crops and minimize the need for pesticide treatment to control the pest. Reducing the introduction of Japanese beetle will allow for some nurseries to continue to export nursery stock to noninfested states. In addition the quarantine provides for the recovery of costs incurred by the Commissioner in enforcement of the quarantine.

Factual Findings

The Commissioner of Agriculture finds as follows:

1) Japanese beetle is a scarab beetle, approximately one-half inch long with a metallic green body and copper-colored covers on its wings. It can be identified by its 12 tufts of hairs bordering the margin of the wing covers.

2) From its original introduction in New Jersey in 1919, Japanese beetle has greatly expanded its range. It is now generally distributed throughout the country, excluding the western United States. It is also found in parts of Ontario, Canada.

3) Japanese beetle is most commonly transported to new locations with soil surrounding nursery plants. Eggs are sometimes laid in the soil of container stock and balled/burlap nursery materials, so the root feeding larvae are carried with the plants.

4) The Japanese beetle can be a very damaging insect in both the adult and larval stages. Adult Japanese beetles cause serious injury to leaves and flowers of many ornamentals, fruits, and vegetables. Among the plants most commonly damaged are rose, grape, crabapple, and beans. Larvae chew roots of turfgrasses and it is the most important white grub pest of turfgrass in much of the northeastern quadrant of the United States.

5) Japanese beetle is a regulated insect subject to internal quarantines in the United States. The presence of established Japanese beetle populations in Colorado restricts trade. Nursery products originating from Japanese beetle-infested states require special treatment or are outright banned from shipment to areas where this insect does not occur.

6) Japanese beetle has likely been introduced into Colorado on several occasions. However, historically these almost always failed to result in reproducing, established populations in the state. Unfortunately, this situation has recently changed as at least two populations are now known. The first population began in 2003 in the Palisade area on the West Slope. Efforts to eradicate it have now been successful. More recently, Japanese beetle has been discovered in Denver and Arapahoe County.

7) Historically, this insect is a target for large amounts of insecticide use where it is established.

13.2. Adopted December 16, 2010 – Effective January 30, 2011

Statutory Authority:

These amendments to the permanent rules are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Pest Control Act (the "Act") at Section 35-4-110 C.R.S.

Purpose

The purpose of this amendment is to:

1. Correct errors.

2. Clarify treatment protocols.

3. Clarify that all ornamental grasses are restricted.

4. Add restriction protocol for pot-in-pot production of nursery stock.

Factual and Policy Issues

The factual and policy issues encountered in proposing these amendments are as follows:

1. British Columbia is not under quarantine and needs to be removed.

2. Ornamental grasses regardless of size have been identified as a high risk carrier of Japanese beetle.

3. Allow for a non-chemical treatment option for pot-in-pot nursery stock production.

13.3. Adopted February 15, 2013 – Effective March 30, 2013

Statutory Authority:

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture pursuant to his authority under the Pest Control Act, § 35-4-110, C.R.S.

Purpose:

The purposes of these amendments are to:

1. Repeal the rules related to soil survey/sampling protocol at Section 5.00(b).

2. Establish a container size limit under the Container Certification protocol.

Factual and Policy Issues

The factual and policy issues encountered in proposing these amendments are as follows:

1. The soil survey/sampling protocol for certification of field grown nursery stock is not rigorous and potential risk of introduction of Japanese beetle larvae in harvested root balls of large nursery stock is high when using this certification protocol. As such it is proposed that the entire protocol be eliminated. Harvested field grown nursery stock may instead enter the state of Colorado with the remaining treatment protocols currently listed in the quarantine.

2. Containerized nursery stock is allowed entry into the state under a protocol whereby the container must not directly sit on top of soil. Containers that sit on top of raised benches or on some type of barrier such as gravel or landscape fabric are eligible for certification. Currently any sized container is eligible when produced in this manner. However, larger sized containers, or containers bigger than 16" in diameter pose a high risk for introduction of beetle larvae, even when produced under the container protocol. Therefore a restriction on the size of container eligible for certification using this protocol is warranted. Containers less than 16" in diameter pose reduced risk and will still remain eligible for certification using the container certification protocol. Nursery stock in containers larger than 16" in diameter are eligible for certification via dip treatment.

13.4. Adopted November 9, 2016 – Effective December 30, 2016

Statutory Authority:

These amendments to the quarantine are adopted by the Colorado Commissioner of Agriculture (Commissioner) pursuant to his authority under the Pest Control Act (section 35-4-110, C.R.S.)

Purpose

The purposes of these amendments are to:

1. Add the Colorado Counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Pueblo, and Weld to the areas under quarantine.

2. Add an additional certification method via production in an approved Japanese Beetle free greenhouse or screenhouse for ornamental grasses.

3. Offer nurseries an additional certification method to allow pest free nursery stock to continue to enter non-infested areas of Colorado while protecting those areas from Japanese Beetle introduction.

Factual and Policy Issues

The factual and policy issues encountered in proposing these amendments are as follows:

1. Japanese Beetle populations in these Front Range Colorado Counties have risen in number over time and many areas within these counties are considered infested.

2. A Systems Approach to Nursery Certification (SANC) allows approved nurseries an additional and alternative method of pest control that can be tailored to fit the specific needs of each participating nursery.

3. This certification method is available to an out-of-state nursery if the SANC program in its state is equivalent to that approved for use by Colorado nurseries.

4. Ornamental grasses produced in a Japanese beetle-free greenhouse or screenhouse meet certification standards and provide growers with an additional method for pest free nursery stock certification.

13.5. Adopted February 22, 2018 – Effective April 15, 2018

Statutory Authority:

These amendments to the quarantine are adopted by the Colorado Commissioner of Agriculture pursuant to his authority under the Pest Control Act, § 35-4-110, C.R.S.

Purpose:

The purposes of these amendments are to:

1. Expand the quarantine's coverage in Part 4.1.2 to include smaller containers by decreasing the size of containers exempt from the quarantine.

2. Incorporate by reference the National Plant Board's Japanese Beetle Harmonization Plan, dated June 20, 2016, in Part 5.2.2.4.

3. Remove text found in various subparts of Parts 5.3.1, 5.5.2.2, and 5.6.2.2, which parts name specific insecticide products and their application rates, in order to focus on active ingredients and not products.

4. Make plants in containers 12" diameter or smaller subject to Part 5.6's listed restrictions regarding Japanese beetle trapping and management.

5. Add a new Part 5.7 permitting shipments of ornamental grasses into Colorado or shipments from areas under quarantine, provided those grasses have been produced in an approved, Japanese beetle-free greenhouse/screenhouse.

6. Update numerical references in Part 5 to account for the new Part 5.7.

7. Make typographical, grammatical, and non-substantive changes in Parts 4 and 5 of the quarantine.

Factual and Policy Issues:

The factual and policy issues encountered in proposing these amendments are as follows:

1. For many years, CDA has exempted containers measuring 12" or less from the Japanese beetle quarantine, unless those containers held ornamental grasses or sedges, because containers of that size were not expected to hold Japanese beetle. However, in July 2017, an out-of-state nursery shipped into Colorado nursery stock in containers measuring 12" and smaller and later notified CDA that those containers contained or could contain Japanese beetle grubs. Because of this incident, CDA learned that 12" containers could contain various life stages of the Japanese beetle. Therefore, the Department is amending the quarantine at Part 4.1.2 to include 12" containers by reducing the size/volume of containers exempt from the quarantine to 7" or 252 cubic inches (i.e., "#1 containers") or less. CDA chose 7" because data provided by the out-of-state nursery indicated that Japanese beetle grubs did not appear in containers measuring 7" or less.

2. The Department's previous versions of the Rules did not incorporate by reference the National Plant Board's Japanese Beetle Harmonization Plan. Therefore, the Department is amending Part 5.2.2.4 in accordance with § 24-4-103(12.5), C.R.S.

3. The quarantine previously identified specific active ingredients and specific pesticide products containing those ingredients as providing effective treatment against Japanese beetle when used as dip, drench, or similar treatments. The Department intended to assist the regulated community by identifying pesticide product options that met the requirements of the quarantine. However, the Department never intended to endorse a specific pesticide product or manufacturer, nor did it intend to suggest that application rates for those products were static. Therefore, the Department has removed the names of pesticide products and associated application rates from Parts 5.3.1, 5.5.2.2, and 5.6.2.2 so that the regulated community can choose any product with the listed active ingredients, provided they use the product in accordance with the product's labeling directions and requirements.

4. The Department expanded the scope of Japanese beetle trapping and management requirements in Part 5.6 for plants in 12" containers or smaller that are shipped into Colorado from areas under quarantine.

5. To provide increased flexibility without compromising the effectiveness of the quarantine, the Department has added a new Part 5.7, which explains that ornamental grasses, regardless of container size, may be shipped into Colorado or transported from areas under quarantine if those plants have been produced in greenhouses/screenhouses that have been approved as Japanese beetle-free.