

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF PLANT INDUSTRY

#### Spotted Lanternfly Quarantine

#### Adopted Amendment: N.J.A.C. 2:20-10.4

Proposed: October 3, 2022, at 54 N.J.R. 1895(a).

Adopted: January 11, 2023, by the New Jersey Department of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Filed: January 11, 2023, as R.2023 d.019, **without change**.

Authority: N.J.S.A. 4:1-21.2, 21.5, and 21.6 and 4:7-1 et seq.

Effective Date: February 6, 2023.

Expiration Date: January 25, 2025.

#### Summary of Public Comments and Agency Responses:

The Department of Agriculture (Department) received written comments from 18 members of the public. Those email comments were signed with the following names:

- (a) Patrick Best;
- (b) Jeremy Garson;
- (c) Mrs. Murphy;
- (d) Mary Ann Harkins;
- (e) Elaine Kallenbach;
- (f) Rebecca Alvarado;
- (g) no name given, from email address starting Lovie\*\*\*\*\*;
- (h) Becky Sodon;
- (i) Barbara Compel;
- (j) Gloria Reed;
- (k) Linda Rosen;
- (l) Pam Farley;
- (m) Cheryl Ciappetta;
- (n) Paula Levy;
- (o) Theresa Dosch;
- (p) Helene Greenstein;
- (q) Tracy Monteiro; and
- (r) Jean Public.

The sentiments expressed in those comments fall into one or more of the following categories, and the comments falling into each category will be identified and summarized, and then the Department will provide its responses:

COMMENT: The existence of Spotted Lanternfly in New Jersey is a problem. Commenters (h), (m), (n), and (o) described the nuisances and hardships that Spotted Lanternfly has caused to them, to their communities, and Statewide for homeowners, businesses, and our environment.

RESPONSE: The Department agrees that the presence of Spotted Lanternfly (SLF) in New Jersey is a nuisance that causes hardships to homeowners and businesses, as well as the environment. The adopted amendments are one prong of a multi-prong strategy intended to suppress the infestation of Spotted Lanternfly in New Jersey, which includes applying pesticides and herbicides in high priority areas throughout the State to reduce the SLF's spread, and reimbursement programs to counties wanting to prioritize their own local high priority areas.

COMMENT: There are Spotted Lanternflies where I live. Commenters (a), (e), (f), and (k) informed the Department that there are now Spotted Lanternfly in their community.

RESPONSE: In 2020, soon after Spotted Lanternfly was first observed in New Jersey, the Department asked the public to inform the Department when Spotted Lanternfly was seen in their communities. Those reports were helpful and allowed the Department to quickly understand the magnitude and spread of the problem caused by this insect. Unfortunately, because the Spotted Lanternfly has spread throughout the State, reports to the Department of Spotted Lanternfly sightings are no longer needed. The

Department thanks those who have taken the time to alert the Department to the existence of Spotted Lanternfly in their communities, and the task for the Department and for the public now is to take other measures to suppress the existence of the Spotted Lanternfly in our State.

COMMENT: A quarantine won't work. Commenters (c) and (p) expressed skepticism regarding the proposed amendments, suggesting that a quarantine affecting flying insects just won't work. Commenter (q) echoed those sentiments and also expressed a concern that requiring permits to move vehicles is just another way for the State to make money by charging for permits.

RESPONSE: The Department believes that a quarantine can be effective, but it is only one part of a much larger response that has been pursued by the Department. As Spotted Lanternfly by their nature are not so much flying insects as hopping insects, they do not tend to travel great distances without "hitchhiking" on human conveyances like cars, trucks, and buses, as well as in cargo (including nursery products) that are moved from area to area. The quarantine provided for in the Department's rules is intended to help prevent Spotted Lanternfly movement in that way, and the adopted amendments are intended to ensure that that tool is now used Statewide.

In addition to the quarantine methods for individuals and businesses described above, the Department mitigates the spread and size of the Spotted Lanternfly population by applying pesticides and/or herbicides in high priority areas where such applications are likely to be effective.

Since its discovery in the State, the Department and the U.S. Department of Agriculture (USDA) have hired field crews (approximately 48 State and Federal workers) to survey and treat for these insects when found. Initially, eradication of new infestations around farms, woodlots, and residential properties were prioritized by these field crews. Over the course of time, as the infestations continued to spread, the crews have shifted from eradication efforts in those areas to instead prioritizing population reductions in high priority areas such as seaports, airports, high transportation corridors, and rail lines and yards to restrict SLF's movement within and out of the State. Counties may also apply for reimbursements for costs to treat the areas around farms, woodlots, and residential properties if the Department has not scheduled such an area for treatment.

Permits are required for businesses that move any material out of the State. Relevant businesses must take a virtual training and pass an exam based on the training to receive the permit. Permits are free, and the only cost to businesses is the time required to receive the training, which only takes about an hour. Permit information can be found on the Department website at <https://www.nj.gov/agriculture/divisions/pi/prog/pests-diseases/spotted-lanternfly/>.

COMMENT: Spraying. Commenters (c) and (p) asked if there is a spray that will kill the Spotted Lanternfly and, if so, asked why that is not being used. Commenter (g) noted that they had reported a Spotted Lanternfly infestation to local officials without response, and commenter (m) urged towns to spray and asked if there is funding for that. Commenters (d) and (i) noted that they have used sprays around their homes that they created from common home products to spray Spotted Lanternfly on their own property.

RESPONSE: The Department and the USDA APHIS PPQ are working together in a joint effort to treat trees at high priority locations, such as seaports, airports, train yards, and high-volume shipping operations to slow the spread of the spotted lanternfly to other states and countries. Treatments can include systemic insecticides, contact insecticides, herbicides, and even Golden Pest Spray Oil. The Department also offers a treatment reimbursement program to counties for additional treatments, beyond what Federal and State crews are providing. The Department plans to offer similar reimbursement incentives to municipalities next season. Due to the sheer size of the endeavor, the Department has also been asking for the public to become involved in treating their properties, as well as to assist the governmental actions being conducted.

The only spraying materials that are recommended, based on scientific research conducted by Federal and academic institutions and found safe

for plant materials and residents, are those that are posted on the Department website at <https://www.nj.gov/agriculture/divisions/pi/prog/pests-diseases/spotted-lanternfly/homeowner-resources/>.

COMMENT: Tree of Heaven. Commenters (h) and (l) discussed the role of the Tree of Heaven in providing food and sustenance to Spotted Lanternfly and urged the Department to help with the cutting and removal of that food source from public and private property.

RESPONSE: Removing Tree of Heaven (TOH) is an option for SLF population reduction, and it has been used along with approved pesticide treatments to reduce SLF populations in areas. However, SLF can, and will, feed on other tree species as they are adapting to their new environment. Therefore, simply removing TOH will not guarantee freedom of SLF on residential and forested areas. Neither the Department, nor the USDA, perform tree removals because they find insecticide treatments to be more effective and prefer to use herbicides in lieu of removal of trees when appropriate.

COMMENT: What is being done generally to address the problem of Spotted Lanternfly? What is being done to inform the public? And what can the public do to help? Commenter (p) asked whether the public at large is being informed of the problems presented by the Spotted Lanternfly in New Jersey and commenter (o) asked more generally what is being done to address the problem. Additionally, commenters (d) and (j) asked what more can the public do to help, mentioning squashing the insect and asking if planting other plants might help repel the insect.

RESPONSE: Due to the fact that the SLF is non-native and invasive, there are no natural predators to control its populations and it continues to feed on new food sources as it adapts to its new environment. Furthermore, SLF feeding habits have changed since its introduction to the State's environment. There are no known studies on plants that repel them, even in their native Asiatic environments.

There are approved treatment and management options available to municipal officials, homeowners, and businesses to effectively combat these insects that are based on valid scientific research. Approved management and treatment options can be found on the Department's website at <https://www.nj.gov/agriculture/divisions/pi/prog/pests-disease/s/spotted-lanternfly/>.

COMMENT: Our Spotted Lanternfly infestation is due to lax administration of the laws by the USDA and the New Jersey taxpayer should not foot the bill for that Federal mistake. Commenter (r) asserted that the Spotted Lanternfly arrived in our country because the USDA failed to properly inspect shipments coming from China and that New Jersey Department of Agriculture should not make the State's taxpayers pay for that Federal mistake.

RESPONSE: The Spotted Lanternfly is here, and a response by the Department is needed. The adopted amendment to the existing rules to enlarge the quarantine to all counties in New Jersey is one, but not the only, response intended to suppress the Spotted Lanternfly infestation. Preventing the further spread, and the eradication, of the insect is necessary, regardless of how the insect arrived in the State.

COMMENT: Expressions of support for the amendments. Commenters (b) and (h) expressed support for the proposed amendments.

RESPONSE: The Department appreciates the commenters sentiments.

**Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal standards that govern the Spotted Lanternfly.

Full text of the adoption follows:

**SUBCHAPTER 10. SPOTTED LANTERNFLY**

**2:20-10.4 Quarantine area**

(a) By order of the State Board of Agriculture, and pursuant to N.J.S.A. 4:1-21.5, in order to control the spread of the dangerously injurious insect, the Spotted Lanternfly, a menace to the State's agricultural industries, environment, and residential areas of New Jersey, all New Jersey counties are hereby quarantined in their entirety.

(b) (No change.)

**COMMUNITY AFFAIRS**

(a)

**DIVISION OF HOUSING AND COMMUNITY RESOURCES**

**Notice of Readoption  
Neighborhood Revitalization State Tax Credit**

**Readoption: N.J.A.C. 5:47**

Authority: N.J.S.A. 52:27D-498; and P.L. 2013, c. 61.

Authorized By: Lt. Governor Sheila Y. Oliver, Commissioner,  
Department of Community Affairs.

Effective Date: January 5, 2023.

New Expiration Date: January 5, 2030.

**Take notice** that, pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 5:47 were scheduled to expire on February 4, 2023. These rules establish standards for the implementation of the Neighborhood Revitalization State Tax Credit Act (the Act). The Act is designed to foster the revitalization of New Jersey's low- and moderate-income neighborhoods through comprehensive strategies driven by residents and other public and private stakeholders within the neighborhood; specifically by encouraging community-based neighborhood planning, providing flexible resources for community-based organizations to carry out strategies established in neighborhood plans, building the capacity of local- and community-based organizations to carry out neighborhood revitalization activities, attracting private investment into New Jersey's low- and moderate-income neighborhoods, and fostering ongoing partnerships between private corporations and community-based development organizations.

This chapter contains 10 subchapters. Subchapter 1 contains general provisions. Subchapter 2 states which business entities are eligible and addresses allowable tax credits. Subchapter 3 addresses the neighborhood revitalization plan. Subchapter 4 addresses projects. Subchapter 5 contains the criteria for qualifying projects. Subchapter 6 addresses the application process. Subchapter 7 addresses contracting, reporting, and monitoring. Subchapter 8 addresses the establishment of a clearinghouse for business entities seeking to provide assistance to qualifying projects, and the allocation of assistance. Subchapter 9 addresses the fund and use of interest. Subchapter 10 addresses the task force to advise Department of Community Affairs' (Department) staff on the administration of the program.

The Department has reviewed the rules and has determined that they should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1, these rules are readopted and shall continue in effect for a seven-year period.

**ENVIRONMENTAL PROTECTION**

(b)

**AIR, ENERGY, AND MATERIALS SUSTAINABILITY  
DIVISION OF AIR QUALITY**

**Mobile Cargo Handling Equipment at Ports and  
Intermodal Rail Yards**

**Adopted New Rules: N.J.A.C. 7:27-34**

**Adopted Amendment: N.J.A.C. 7:27A-3.10**

Proposed: January 3, 2022, at 54 N.J.R. 7(a).

Adopted: December 29, 2022, by Shawn M. LaTourette,

Commissioner, Department of Environmental Protection.

Filed: January 3, 2023, as R.2023 d.014, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:1B-3(e), 13:1D-9, and 26:2C-1 et seq.