

# Virginia Administrative Code

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## CHAPTER 316

### RULES AND REGULATIONS FOR ENFORCEMENT OF THE VIRGINIA PEST LAW - BEACH VITEX QUARANTINE

#### **2VAC5-316-10. Declaration of quarantine.**

A quarantine is hereby established to restrict the movement of the invasive plant, Beach Vitex, and articles capable of transporting life stages of Beach Vitex unless such articles comply with the conditions specified herein.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010.

#### **2VAC5-316-20. Purpose of quarantine.**

Beach Vitex, a deciduous woody vine native to the Pacific Rim, grows rapidly along dunes and shorelines causing damage to these areas by crowding out native plants and threatening the habitats of various animals, including the endangered loggerhead sea turtle. Although Beach Vitex has been planted in efforts to stabilize dunes, it is less effective than native grasses in controlling dune erosion. Beach Vitex has been detected in several coastal sites in the Commonwealth and has the potential to spread to other areas through the artificial movement of Beach Vitex by individuals, or through the natural movement of Beach Vitex parts such as seeds and stems that could be carried by water currents to uninfested coastal areas. The purpose of this quarantine is to help prevent the spread of Beach Vitex by prohibiting its artificial movement and the movement of those articles that are capable of transporting it.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010.

**2VAC5-316-30. Definitions.**

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Beach Vitex" means the live plant, in any life stage, known as Beach Vitex, *Vitex rotundifolia*.

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Certificate" means a document issued by an inspector or person operating in accordance with a compliance agreement to allow the movement of regulated articles to any destination.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services.

"Compliance agreement" means a written agreement between a person engaged in handling, receiving, or moving regulated articles and the Virginia Department of Agriculture and Consumer Services wherein the former agrees to fulfill the requirements of the compliance agreement and comply with the provisions of this regulation.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Infestation" means the presence of Beach Vitex or the existence of circumstances that make it reasonable to believe that life stages of Beach Vitex are present.

"Inspector" means an employee of the Virginia Department of Agriculture and Consumer Services or other person authorized by the Commissioner of the Virginia Department of Agriculture and Consumer Services to enforce the provisions of this quarantine or regulation.

"Limited permit" means a document issued by an inspector to allow the movement of regulated articles to a specific destination.

"Moved," "move," or "movement" means shipped, offered for shipment, received for transportation,

transported, carried, or allowed to be moved, shipped, transported, or carried.

"Person" means the term as defined in § 1-230 of the Code of Virginia.

"Regulated area" means the area listed in 2VAC5-315-50 of this quarantine.

"Virginia Pest Law" means the statute set forth in Chapter 7 (§ 3.2-700 et seq.) of Title 3.2 of the Code of Virginia.

#### Statutory Authority

§ 3.2-703 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

#### **2VAC5-316-40. Regulated articles.**

The following articles are regulated under the provisions of this quarantine and shall not be moved into, within, or out of the regulated area in Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Beach Vitex, in any life stage, including roots, stems, and seeds.
2. Any article known to be infested with Beach Vitex, such as sand, soil, or mulch containing Beach Vitex in any life stage.
3. Any other article or means of conveyance when it is determined by an inspector that it presents a risk of spreading Beach Vitex.

#### Statutory Authority

§ 3.2-703 of the Code of Virginia.

#### Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

### **2VAC5-316-50. Regulated areas.**

The entire Commonwealth of Virginia is quarantined for Beach Vitex.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

### **2VAC5-316-60. Conditions governing the intrastate movement of regulated articles.**

The movement of a regulated article into, within, or out of the quarantined area is prohibited unless accompanied by a valid certificate or limited permit.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

### **2VAC5-316-70. Issuance and cancellation of certificates and limited permits.**

A. Certificates and limited permits may be issued by an inspector for the movement of regulated articles into, within, or out of the regulated area when the regulated articles meet the following three conditions:

1. The regulated articles are to be moved to a specified destination under conditions that specify the limited handling, utilization, processing, or treatment of the articles when the inspector determines that such movement will not result in the spread of Beach Vitex because the life stage of the plant will be destroyed by such specified handling, utilization, processing, or treatment; or the regulated articles are to be moved by a state or federal agency or person authorized by the

department for experimental or scientific purposes;

2. The regulated articles are to be moved in compliance with any additional conditions deemed necessary under the Virginia Pest Law to prevent the spread of Beach Vitex; and

3. The regulated articles are eligible for unrestricted movement under all other domestic plant quarantines and regulations applicable to the regulated articles.

B. Any certificate or limited permit that has been issued or authorized may be withdrawn by the inspector orally or in writing if the inspector determines that the holder of the certificate or limited permit has not complied with all conditions for the use of the certificate or limited permit or with any applicable compliance agreement. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing and communicated to the certificate or limited permit holder as promptly as circumstances allow.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

**2VAC5-316-80. Assembly and inspection of regulated articles.**

A. Any person who desires to move regulated articles into, within, or out of the regulated area shall apply for a limited permit as far in advance as practical but no less than five business days before the regulated articles are to be moved.

B. The regulated article must be assembled at the place and in the manner the inspector designates as necessary to facilitate inspection and shall be safeguarded from infestation.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

**2VAC5-316-90. Attachment and disposition of certificates and limited permits.**

A. A certificate or limited permit required for the movement of a regulated article into, within, or out of the regulated area must be attached at all times during the intrastate movement to the outside of the container that contains the regulated article or to the regulated article itself. The requirements of this section may also be met by attaching the certificate or limited permit to the consignee's copy of the waybill provided the regulated article is sufficiently described on the certificate or limited permit and on the waybill to facilitate the identification of the regulated article.

B. The certificate or limited permit for the intrastate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article. A copy of the certificate or the limited permit must be retained by the sender of the regulated article at the place of shipment.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010; amended, Virginia Register Volume 26, Issue 23, eff. July 8, 2010.

**2VAC5-316-100. Inspection and disposal of regulated articles and pests.**

Upon presentation of official credentials, an inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of, regulated articles as provided in the Virginia Pest Law.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010.

**2VAC5-316-110. Nonliability of the department.**

The department shall not be liable for any costs incurred by third parties whose costs result from or are incidental to inspections required under the provisions of the quarantine.

Statutory Authority

§ 3.2-703 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. January 8, 2010.

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