

such manner as the inspector or qualified certified applicator designates to facilitate inspection.

**§ 301.45-8 Attachment and disposition of certificates, limited permits, and outdoor household article documents.**

(a) A certificate, limited permit, or OHA document required for the interstate movement of a regulated article or outdoor household article must at all times during such movement be securely attached to the outside of the container containing the regulated article or outdoor household article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the waybill or other shipping document: Provided, however, That the requirements of this section may be met by attaching the certificate, limited permit, or OHA document to the consignee's copy of the waybill or other shipping document only if the regulated article or outdoor household article is sufficiently described on the certificate, limited permit, OHA document or shipping document to identify such article.

(b) The certificate, limited permit, or OHA document for the movement of a regulated article or outdoor household article shall be furnished by the carrier to the consignee at the destination of the shipment.

(c) Any qualified certified applicator who issues a certificate or OHA document shall at the time of issuance send a copy of the certificate or OHA document to the APHIS officer in charge for the State in which the document is issued.

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[58 FR 39423, July 23, 1993, as amended at 59 FR 46902, Sept. 13, 1994]

**§ 301.45-9 Inspection and disposal of regulated articles and pests.**

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 section 10 of the Plant Quarantine Act (7 U.S.C.

164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd).

**§ 301.45-10 Movement of live gypsy moths.**

Regulations requiring a permit for, and otherwise governing the movement of, live gypsy moths in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in part 330 of this chapter.

**§ 301.45-11 Costs and charges.**

The services of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

**§ 301.45-12 Disqualification of qualified certified applicator to issue certificates.**

(a) Any qualified certified applicator may be disqualified from issuing certificates by the Administrator if he determines that one of the following has occurred:

(1) Such person is not certified by a State and/or Federal Government as a commercial certified applicator under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (86 Stat. 983; 7 U.S.C. 136b) in a category allowing use of the restricted pesticides Spray N Kill (EPA Registration No. 8730-30), Ficam W (EPA Registration No. 45639-1), and acephate (Orthene®); or

(2) Noncompliance with any of the provisions of this subpart; or,

(3) Failure to attend and complete, each time such person is recertified as a certified commercial applicator under FIFRA, a workshop approved by the Administrator on the identification and treatment of life stages of gypsy moth on outdoor household articles and mobile homes.

(b) The disqualification is effective upon oral or written notification, whichever is earlier. The reasons for the disqualification shall be confirmed in writing as promptly as circumstances permit, unless contained in the written notification. Any qualified certified applicator who is disqualified from issuing certificates may appeal

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the decision in writing to the Administrator within ten (10) days after receiving written notification of the disqualification. The appeal shall state all of the facts and reasons upon which the person relies to show that the disqualification was a wrongful action. The Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

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[58 FR 39423, July 23, 1993, as amended at 59 FR 46902, Sept. 13, 1994]

### Subpart—Japanese Beetle

SOURCE: 44 FR 24035, Apr. 24, 1979, unless otherwise noted.

#### QUARANTINE AND REGULATIONS

### § 301.48 Notice of quarantine; quarantine restrictions on interstate movement of regulated articles.

(a) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), the Secretary of Agriculture heretofore determined after public hearing to quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within or throughout the United States.

(b) No person shall move any regulated article interstate from any regulated airport destined to any of the following States except in accordance with the conditions prescribed in this

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subpart: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

[44 FR 24035, Apr. 24, 1979, as amended at 61 FR 32640, June 25, 1996]

### § 301.48-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed, respectively, to mean:

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*Compliance agreement.* A written agreement between the Animal and Plant Health Inspection Service and a person engaged in the business of moving regulated articles interstate, in which the person agrees to comply with the provisions of this subpart.

*Inspector.* Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Administrator to enforce the provisions of the quarantine and regulations in this subpart.

*Interstate.* From any State into or through any other State.

*Japanese beetle.* The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development (egg, larva, pupa, or adult).

*Person.* Any individual, corporation, company, partnership, society, or association, or other organized group of any of the foregoing.

*Regulated airport.* Any airport or portions of an airport in a quarantined State declared regulated in accordance with provisions in § 301.48-2 of this subpart.

*Regulated articles.* Aircraft at or from regulated airports.

*State.* Any State, territory, or district of the United States, including Puerto Rico.

*State Plant Regulatory Official.* The authorized official of a State who has responsibility for the operation of the State plant regulatory program.