

operating under a compliance agreement may execute and issue the certificate forms or reproduction of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement, if the person has treated such regulated articles as specified in the compliance agreement, and if the regulated articles are eligible for certification for movement to any destination under all applicable Federal domestic plant quarantines. Any person operating under a compliance agreement may execute and issue the limited permit forms, or reproductions of such forms, for the interstate movement of regulated articles to specified destinations when an inspector has made the determinations specified in paragraph (b) of this section.

(d) A certificate may be issued by a qualified certified applicator for the interstate movement of any outdoor household article or mobile home if such qualified certified applicator determines the following:

(1) That the article has been inspected by the qualified certified applicator and found to be free of any life stage of the gypsy moth; or

(2) That the article has been treated by, or treated under the direct supervision of, the qualified certified applicator to destroy any life stage of the gypsy moth in accordance with methods and procedures prescribed in section III of the Gypsy Moth Program Manual.

(e) An OHA document may be issued by the owner of an outdoor household article for the interstate movement of the article if such person has inspected the outdoor household article and has found it to be free of any life stage of gypsy moth.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by an inspector if he determines that the holder thereof has not complied with any condition for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or permit has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving the written notification of

the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or permit was wrongfully withdrawn. 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]

**§ 301.45-6 Compliance agreement and cancellation thereof.**

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Qualified certified applicators must enter into compliance agreements, in accordance with the definition of qualified certified applicator in § 301.45-1. A compliance agreement shall specify safeguards necessary to prevent spread of the gypsy moth, such as disinfection practices or application of chemical materials in accordance with the treatment manual. Compliance agreement forms may be obtained from the Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that such person has failed to comply with the conditions of the agreement. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such

## § 301.45-7

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]

### **§ 301.45-7 Assembly and inspection of regulated articles and outdoor household articles.**

Persons (other than those authorized to use certificates or limited permits, or reproductions thereof, under § 301.45-5(c)) who desire to move interstate a regulated article which must be accompanied by a certificate or permit shall, at least 7 days before the desired movement, request an inspector to examine the article prior to movement. Persons who desire to move interstate an outdoor household article accompanied by a certificate issued in accordance with § 301.45-5 shall, at least 14 days before the desired movement, request an inspector to examine the article prior to movement. Persons who desire to move interstate an outdoor household article or a mobile home accompanied by a certificate issued by a qualified certified applicator in accordance with § 301.45-5(d) shall request a qualified certified applicator to examine the article prior to movement. Such articles shall be assembled at such point and in 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 require-

## 7 CFR Ch. III (1-1-03 Edition)

ments 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 sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[58 FR 39423, July 23, 1993, as amended at 66 FR 21050, Apr. 27, 2001]

### **§ 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