

**§ 301.50-5**

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

article or attached to the regulated article itself, if the regulated article is not in a container.

[57 FR 54496, Nov. 19, 1992, as amended at 58 FR 28335, May 13, 1993]

**§ 301.50-5 Issuance and cancellation of certificates and limited permits.**

(a) A certificate will be issued by an inspector<sup>3</sup> for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with §301.50-10 of this subpart; or

(ii) Based on inspection of the premises of origin, if the regulated article is a greenhouse-grown pine (such as bonsai), that the greenhouse is free from the pine shoot beetle and is screened to prevent entry of the pine shoot beetle; or

(iii) Based on inspection of the regulated article, if the regulated article is a pine seedling or a pine transplant and is no greater than 36 inches high with a bole diameter at soil level of 1 inch or less, that it is free from the pine shoot beetle; or

(iv) Based on inspection by an inspector (branch tip-by-branch tip) of pine nursery stock, that it is free from the pine shoot beetle; or

(v) If the regulated article is a pine log with bark attached or pine lumber with bark attached or a pine stump, that its source tree has been felled during the period of July through October; and

(2)(i) The regulated article will be moved through the quarantined area during October, November, or December, or when the ambient air temperature is below 10 °C (50 °F); or

(ii) The regulated article will be moved through the quarantined area during the period of January through September, if the ambient air tempera-

ture is 10 °C (50 °F) or higher, in an enclosed vehicle or completely enclosed by a covering adequate to prevent access by the pine shoot beetle; or

(iii) The pine log with bark attached, pine lumber with bark attached, or pine stump, from a tree felled during the period of July through October, will be shipped interstate from the quarantined area during the period of July through October; and

(3) The regulated article is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>4</sup> to prevent the spread of the pine shoot beetle; and

(4) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

(b) An inspector<sup>5</sup> will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the pine shoot beetle. If the regulated article is part of a shipment of pine Christmas trees, the inspector will make a pest-risk determination on the basis of an inspection conducted in accordance with §301.50-5(c) of this paragraph; or

(ii) The regulated article is to be moved interstate from a quarantined area to a quarantined area and will transit any non-quarantined area in an enclosed vehicle or completely enclosed by a covering adequate to prevent access by the pine shoot beetle; and

(2) The regulated article is to be moved in compliance with any additional conditions deemed necessary

<sup>3</sup>Services of an inspector may be requested by contacting the local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.

<sup>4</sup>An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

<sup>5</sup>See footnote 3 to §301.50-5(a).

under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of the pine shoot beetle; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) The number of pine Christmas trees randomly selected for inspection is determined by the size and type of shipment, in accordance with the following tables. If a shipment mixes painted and natural trees, the inspection procedure for painted trees will apply.

TABLE 1—PAINTED (COLOR-ENHANCED) PINE CHRISTMAS TREES <sup>1</sup>

No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample
1-72 .....	All	701-800 .....	120
73-100 .....	73	801-900 .....	121
101-200 .....	96	901-1,000 .....	122
201-300 .....	106	1,001-2,000 .....	126
301-400 .....	111	2,001-3,000 .....	127
401-500 .....	115	3,001-5,000 .....	128
501-600 .....	117	5,001-10,000 .....	129
601-700 .....	119	10,001 or more .....	130

<sup>1</sup> If a pine shoot beetle is detected in any one of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, "All trees that remain unsold as of December 25 must be destroyed by burning or chipping, or must be fumigated, prior to January 1."

TABLE 2—NATURAL (UNPAINTED) CHRISTMAS TREES <sup>1</sup>

No. of trees in shipment	No. of trees to sample	No. of trees in shipment	No. of trees to sample
1-57 .....	All	501-600 .....	80
58-100 .....	58	601-700 .....	81
101-200 .....	69	701-1,000 .....	82
201-300 .....	75	1,001-3,000 .....	84
301-400 .....	77	3,001-10,000 .....	85
401-500 .....	79	10,001 or more .....	86

<sup>1</sup> If a pine shoot beetle is detected in any one of the trees being sampled, the entire shipment must be rejected. If no pine shoot beetle is detected in any of the trees sampled, the shipment will be allowed to move with a limited permit. The limited permit must state, "All trees that remain unsold as of December 25 must be destroyed by burning or chipping, or must be fumigated, prior to January 1."

(d) Certificates and limited permits for use for interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article if an inspector has determined that the

regulated article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(e) Any certificate or limited permit that has been issued may be withdrawn by an inspector orally, or in writing, if he or she determines that the holder of the certificate or limited permit has not complied with all conditions under this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning such a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088)

[57 FR 54496, Nov. 19, 1992, as amended at 58 FR 6348, Jan. 28, 1993; 58 FR 28335, May 13, 1993; 58 FR 34683, June 29, 1993; 59 FR 67608, Dec. 30, 1994; 66 FR 21051, Apr. 27, 2001]

**§ 301.50-6 Compliance agreements and cancellation.**

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person understands this subpart.<sup>6</sup>

<sup>6</sup>Compliance agreement forms are available without charge from the Animal and

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