

§ 301.85-2b

7 CFR Ch. III (1-1-05 Edition)

§ 301.85-2b Exempted articles.¹

(a) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (4) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(1) Small grains, if harvested in bulk or directly into approved containers, and if the small grains and containers thereof have not come into contact with the soil; or, if they have been cleaned to meet State seed sales requirements.

(2) Soybeans (other than for seed), if harvested in bulk or directly into approved containers, and if the soybeans and containers thereof have not come into contact with the soil.

(3) Unshucked ear corn, if harvested in bulk or directly into approved containers, and if the corn and containers thereof have not come into contact with the soil.

(4) Used farm tools, if cleaned free of soil.

(b) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (b) (1) through (3) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs: *Provided*, That this exemption shall not apply to any class of regulated articles specified by an inspector in a written notification to the owner or person in possession of the premises that the movement of such articles from such premises under this exemption would involve a hazard of spread of the golden nematode:

(1) Root crops (other than Irish potatoes and sugar beets), if moved in approved containers.

(2) Hay, straw, fodder, and plant litter, if moved in approved containers.

(c) Containers of the following types are approved for the purposes of this section:

(1) New paper bags; and consumer packages of any material except cloth or burlap.

(2) Crates, pallet boxes, trucks, and boxcars, if free of soil.

[35 FR 4692, Mar. 18, 1970, as amended at 47 FR 12331, Mar. 23, 1982; 67 FR 8465, Feb. 25, 2002]

§ 301.85-3 Conditions governing the interstate movement of regulated articles from quarantined States.²

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.85-4 and 301.85-7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the golden nematode and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this section; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.85-2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the golden nematode exists; or

¹The articles hereby exempted remain subject to applicable restrictions under other quarantines and other provisions of this subpart.

²Requirements under all other applicable Federal domestic plant quarantines must also be met.

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(a) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.85-2b; or

(b) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing or analysis may be moved interstate from any regulated area only to laboratories approved³ by the Deputy Administrator and so listed by him in a supplemental regulation.⁴ A certificate or permit is not required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.85-4 and 301.85-7. A certificate or permit is not required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

[37 FR 24330, Nov. 16, 1972, as amended at 67 FR 8465, Feb. 25, 2002]

³Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250.

⁴For list of approved laboratories, see PP 639 (37 FR 7813, 15525, and amendments thereof).

§ 301.85-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Have been treated to destroy infestation in accordance with the treatment manual; or

(3) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles (except soil samples for processing, testing or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the golden nematode and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations may be issued by the Deputy Administrator under such conditions as may be prescribed in each