

## § 301.91-7

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

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 cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such 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 Deputy Administrator.

[49 FR 18992, May 4, 1984, as amended at 59 FR 67609, Dec. 30, 1994]

### § 301.91-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.91-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector<sup>5</sup> to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such articles shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

[49 FR 18992, May 4, 1984, as amended at 59 FR 67609, Dec. 30, 1994]

### § 301.91-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely at-

<sup>5</sup>Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such 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.

tached to the consignee's copy of the accompanying waybill or other shipping document; *Provided, however*, That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

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

### § 301.91-9 Costs and charges.

The services of the inspector shall be furnished without cost, except as provided in 7 CFR part 354. 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.

## Subpart—Phytophthora Ramorum

SOURCE: 67 FR 6834, Feb. 14, 2002, unless otherwise noted.

### § 301.92 Restrictions on the interstate movement of regulated and restricted articles.

No person may move interstate from any quarantined area any regulated or restricted article except in accordance with this subpart.<sup>1</sup>

#### § 301.92-1 Definitions.

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

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service (APHIS) of the

<sup>1</sup>Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated or restricted articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

United States Department of Agriculture.

*Bark chips.* Bark fragments broken or shredded from a log or tree.

*Certificate.* A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article meets the requirements of § 301.92-5(a) of this subpart and may be moved interstate to any destination.

*Compliance agreement.* A written agreement between APHIS and a person engaged in growing, processing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

*Departmental permit.* A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.92-4(a)(2) of this subpart.

*Duff.* Decaying plant matter that includes leaf litter, green waste, stem material, bark, and any other plant material that, upon visual inspection, does not appear to have completely decomposed into soil.

*Firewood.* Wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel.

*Forest stock.* All flowers, trees, shrubs, vines, scions, buds, fruit pits, or other seeds of fruit and ornamental trees or shrubs that are wild-grown, backyard-grown, or naturally occurring and do not meet the definition of nursery stock, and that are not located on a nursery premises.

*Inspector.* Any employee of APHIS, the U.S. Department of Agriculture, or other person authorized by the Administrator to perform the duties required under this subpart.

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

*Log.* The bole of a tree; trimmed timber that has not been sawn further than to form cants.

*Lumber.* Logs that have been sawn into boards, planks, or structural members such as beams.

*Moved (move, movement).* Shipped, offered for shipment, received for transportation, transported, carried, or al-

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

*Mulch.* Bark chips, wood chips, wood shavings, or sawdust, or a mixture thereof, that could be used as a protective or decorative ground cover.

*Nursery stock.* All greenhouse or field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

*Person.* Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

*Plant Protection and Quarantine.* Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

*Quarantined area.* Any State, or any portion of a State, listed in § 301.92-3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.92-3(b) of this subpart.

*Regulated article.* Any article listed in § 301.92-2(a) of this subpart.

*Restricted article.* Any article listed in § 301.92-2(b) of this subpart.

*Soil.* Any non-liquid combination of organic and/or inorganic material in which plants can grow.

*State.* The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

#### § 301.92-2 Regulated and restricted articles.

(a) The following are regulated articles, and may be moved interstate from a quarantined area only if accompanied by a certificate issued in accordance with the regulations in this subpart:

- (1) Nursery stock (except acorns and seeds), unprocessed wood and wood products, and plant products, including firewood, logs, lumber, wreaths, garlands, and greenery of arrowwood (*Viburnum bodnantense*), big leaf maple (*Acer macrophyllum*), black oak (*Quercus kelloggii*), California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), California coffeeberry (*Rhamnus*