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interstate movement of a regulated article to the consignee at the destination of the shipment.

§ 301.51–9 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Subpart—Pink Bollworm

SOURCE: 32 FR 16385, Nov. 30, 1967, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.52 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* The following States are quarantined to prevent the spread of the pink bollworm (*Pectinophora gossypiella* (Saund.)): Arizona, California, New Mexico, and Texas.

(b) *Regulated articles.* No common carrier or other person shall move interstate from any quarantined State any regulated article, except in accordance with this subpart. The following are regulated articles:

(1) Cotton and wild cotton, including all parts of these plants.

(2) Seed cotton.

(3) Cottonseed.

(4) American-Egyptian (long-staple) varieties of cotton lint, linters, and lint cleaner waste; except:[1]

(i) American-Egyptian cotton lint, linters, and lint cleaner waste compressed to a density of at least 22 pounds per cubic foot.

(ii) Trade samples of American-Egyptian cotton lint and linters.

(5) Cotton waste produced at cotton gins and cottonseed oil mills.

(6) Cotton gin trash.

(7) Used bagging and other used wrappers for cotton.

(8) Used cotton harvesting equipment and used cotton ginning and used cotton oil mill equipment.

(9) Kenaf, including all parts of the plants.

(10) Okra, including all parts of these plants, except:

(i) Canned or frozen okra; or

(ii) Okra seed; and

(iii) Fresh, edible fruits of okra:

(A) During December 1 through May 15 if moved interstate, but only during January 1 through March 15 if moved to California.

(B) During May 16 through November 30, if moved interstate to any portion of Illinois, Kentucky, Missouri, or Virginia that is north of the 38th parallel; or to any destination in Colorado, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming.

(11) Any other product, article, or means of conveyance not covered by paragraphs (b)(1) through (10) of this section, when an inspector determines that it presents a risk of spread of the pink bollworm and the person in possession of the product, article, or means of conveyance has actual notice that it is subject to the restrictions of this subpart.

[32 FR 16385, Nov. 30, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 301.52, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 301.52–1 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:

Certificate. A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines and must have not been exposed to pink bollworm infestation after ginning or compression as prescribed.

Compliance agreement. A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

Generally infested area. Any part of a regulated area not designated as a suppressive area in accordance with § 301.52–2.

Infestation. The presence of the pink bollworm or the existence of circumstances that make it reasonable to believe that pink bollworm is present.

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

Interstate. From any State, territory, or district of the United States into or through any other State, territory, or district of the United States (including Puerto Rico).

Limited permit. A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

Moved (*movement, move*). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

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

Pink bollworm. The live insect known as the pink bollworm of cotton (Pectinophora gossypiella Saund.), in any stage of development.

Regulated area. Any quarantined State, territory, or district, or any portion thereof, listed as a regulated area in § 301.52–2a by the Deputy Administrator in accordance with § 301.52–2(a).

Regulated articles. Any articles described in § 301.52(b).

Restricted destination permit. A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

Scientific permit. A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

Suppressive area. That part of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Deputy Administrator under § 301.52–2(a).

[32 FR 16385, Nov. 30, 1967, as amended at 35 FR 2859, Feb. 12, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 52 FR 26943, July 17, 1987; 67 FR 34818, May 16, 2002; 70 FR 33268, June 7, 2005]

§ 301.52–2 Authorization for Deputy Administrator to list regulated areas and suppressive or generally infested areas.

The Deputy Administrator shall publish and amend from time to time as the facts warrant, the following lists:

(a) *List of regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas in a supplemental regulation designated as § 301.52–2a, the quarantined States, territories, or districts, or portions thereof, in which pink bollworm has been found or in which there is reason to believe that pink bollworm is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the

supplemental regulation, may divide any regulated area into a suppressive area and a generally infested area in accordance with the definitions thereof in § 301.52–1. Less than an entire quarantined State, territory, or district will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State, territory, or district has adopted and is enforcing a quarantine or regulations which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State, territory, or district, as a regulated area will otherwise be adequate to prevent the interstate spread of the pink bollworm.

[32 FR 16385, Nov. 30, 1967, as amended at 52 FR 26943, July 17, 1987]

§ 301.52–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and part of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below.

ARIZONA

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

CALIFORNIA

(1) *Generally infested area.*
Imperial County. The entire county.
Inyo County. The entire county.
Los Angeles County. The entire county.
Orange County. The entire county.
Riverside County. The entire county.
San Bernardino County. The entire county.
San Diego County. The entire county.
(2) *Suppressive area.*
Fresno County. The entire county.
Kern County. The entire county.
Kings County. The entire county.
Madera County. The entire county.
Merced County. The entire county.
San Benito County. The entire county.
Tulare County. The entire county.

NEW MEXICO

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

TEXAS

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

[42 FR 13533, Mar. 11, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 301.52–2a, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 301.52–3 Conditions governing the interstate movement of regulated articles from quarantined States.[2]

Any regulated articles may be moved interstate from any quarantined State under the following conditions:

(a) From any regulated area, with certificate or permit issued and attached in accordance with §§ 301.52–4 and 301.52–7 if moved:

(1) From any regulated area into or through any point outside of the regulated areas; or

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

(3) Between any noncontiguous suppressive areas; or

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

(b) From any regulated area, without certificate or permit if moved;

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

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

(3) 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 pink bollworm exists; or

(4) 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

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

(c) From any area outside the regulated areas, without a certificate or permit 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.

[32 FR 16385, Nov. 30, 1967, as amended at 52 FR 26943, July 17, 1987; 70 FR 33268, June 7, 2005]

§ 301.52–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by any 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) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with part 305 of this chapter; or

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

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with part 305 of this chapter, when upon evaluation of the circumstances involved in each specific case the inspector determines that such movement will not result in the spread of the pink bollworm 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 of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines (for other than scientific purposes) if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Deputy Administrator to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Deputy Administrator.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made one of the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if the inspector determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

[32 FR 16385, Nov. 30, 1967, as amended at 70 FR 33268, June 7, 2005]

§ 301.52–5 Compliance agreements; 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. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever the inspector finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

[32 FR 16385, Nov. 30, 1967, as amended at 70 FR 33268, June 7, 2005]

§ 301.52–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.52–4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.52–7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.52–8 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 and pink bollworms as provided sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754), in accordance with instructions issued by the Deputy Administrator.

[32 FR 16385, Nov. 30, 1967, as amended at 66 FR 21051, Apr. 27, 2001]

§ 301.52–9 Movement of live pink bollworms.

Regulations requiring a permit for, and otherwise governing the movement of live pink bollworms in interstate or foreign commerce are contained in the Federal Plant Pest regulations in part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.52–10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs 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—Emerald Ash Borer

SOURCE: 68 FR 59088, Oct. 8, 2003, unless otherwise noted.

§ 301.53–1 Definitions.

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Certificate. A document that is issued for a regulated article by an inspector or by a person operating under a compliance agreement and that represents that such article is eligible for interstate movement in accordance with § 301.53–5(a).

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.