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certificate under § 301.38–4(b), shall, as far in advance of the desired interstate movement as possible (and no less than 48 hours before the desired interstate movement), request an inspector[5] to issue a certificate. To expedite the issuance of a certificate, an inspector may direct that the regulated articles be assembled in a manner that facilitates inspection.

(b) An inspector may issue a certificate for the interstate movement of a regulated article if he or she:

(1) Determines, upon examination, that the regulated article may be moved interstate in accordance with this subpart; and

(2) Determines that the regulated article may be moved interstate in accordance with all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates for interstate movement of regulated articles may be issued by an inspector to a person operating under a compliance agreement for use with subsequent shipments of regulated articles to facilitate their movement. A person operating under a compliance agreement must make the determinations set forth in paragraph (b) of this section before shipping any regulated articles.

(d) Any certificate that has been issued may be withdrawn by an inspector, orally or in writing, if he or she determines that the holder of the certificate has not complied with the conditions of this subpart for the use of the certificate. If the withdrawal is oral, the inspector will confirm the withdrawal and the reasons for the withdrawal, in writing, within 20 days of oral notification of the withdrawal. Any person whose certificate has been withdrawn may appeal the decision, in writing within 10 days after receiving written notification of the withdrawal.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appeal must state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. A hearing will be held to resolve any conflict as to any material fact. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. In a non-protected area, appeal shall be made to the Administrator. The Administrator shall adopt rules of practice for the hearing. The certificate will remain withdrawn pending decision of the appeal.

[54 FR 32791, Aug. 10, 1989, as amended at 59 FR 67608, Dec. 30, 1994; 67 FR 8180, Feb. 22, 2002]

§ 301.38–6 Compliance agreements and cancellation.

(a) Any State may enter into a written compliance agreement with any person who grows or handles regulated articles in a protected area, or moves interstate regulated articles from a protected area, under which that person agrees to comply with this subpart, to provide inspectors with information concerning the source of any regulated articles acquired each year, and to prevent the unauthorized use of certificates issued for future use under the compliance agreement.[6]

(b) A compliance agreement may be cancelled by an inspector, orally or in writing, whenever he or she determines that the person who has entered into the compliance agreement has failed to comply with the agreement or this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed, in writing, within 20 days of oral notification of the cancellation. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts

[5] Services of an inspector may be requested by contacting a local APHIS office (listed in telephone directories under Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine). The addresses and telephone numbers of local offices may also be obtained by writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[6] In non-protected areas, compliance agreements may be arranged by contacting a local office of the Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine, or by writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. A hearing will be held to resolve any conflict as to any material fact. An appeal shall be granted or denied, in writing, as promptly as circumstances allow, and the reasons for the decision shall be stated. In a non-protected area, appeal shall be made to the Administrator. The Administrator shall adopt rules of practice for the hearing. The compliance agreement will remain cancelled pending decision of the appeal.

[54 FR 32791, Aug. 10, 1989; 54 FR 38494, Sept. 18, 1989, as amended at 57 FR 3118, Jan. 28, 1992; 59 FR 67608, Dec. 30, 1994]

§ 301.38–7 Attachment and disposition of certificates.

(a) The certificate required for the interstate movement of a regulated article must, at all times during the interstate movement, be attached to the outside of the container containing the regulated article except as follows:

(1) The certificate may be attached to the regulated article itself if it is not in container; or

(2) The certificate may be attached to the accompanying waybill or other shipping document if the regulated article is identified and described on the certificate or waybill.

(b) The carrier must furnish the certificate to the consignee at the destination of the regulated article.

§ 301.38–8 Costs and charges.

The services of an inspector[4] during normal business hours, Monday through Friday, 8 a.m. to 4:30 p.m., will be furnished without cost to persons requiring the services. The United States Department of Agriculture will not be responsible for any other costs or charges.

[54 FR 32791, Aug. 10, 1989; 54 FR 38494, Sept. 18, 1989]

Subpart—Gypsy Moth

SOURCE: 58 FR 39423, July 23, 1993, unless otherwise noted.

§ 301.45 Notice of quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of , sections 411, 412, 414, 431, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, 7751, and 7754), the Secretary of Agriculture hereby quarantines the States of Connecticut, Delaware, District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin in order to prevent the spread of the gypsy moth, *Lymantria dispar* (Linnaeus), a dangerous insect injurious to forests and shade trees and not theretofore widely prevalent or distributed within or throughout the United States; and establishes regulations governing the interstate movement from generally infested areas of the quarantined States of regulated articles and outdoor household articles defined in § 301.45–1.

(b) *Restrictions on the interstate movement of regulated articles and outdoor household articles.* No common carrier or other person may move interstate from any generally infested area any regulated article or outdoor household article except in accordance with the conditions prescribed in this subpart.

[58 FR 39423, July 23, 1993, as amended at 62 FR 29287, May 30, 1997; 63 FR 38280, July 16, 1998; 66 FR 21050, Apr. 27, 2001; 66 FR 37114, July 17, 2001]

§ 301.45–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

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 of the U.S. Department of Agriculture (APHIS).

Associated equipment. Articles associated and moved with mobile homes and recreational vehicles, such as, but not