AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas;

Hawaii

All of Hawaii.

Puerto Rico.

All of Puerto Rico.

§ 301.87–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved interstate from any regulated area in a quarantined State if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.87–5 and 301.87–8 of this subpart, or

(b) Without a certificate or limited permit, if

(1) Moved directly through any regulated area, and

(2) The article originated outside of any regulated area, and

(3) The point of origin of the article is clearly indicated by shipping documents, its identity has been maintained, and it has not been used for the production of sugarcane while in the regulated area.

§ 301.87–5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if the inspector:

(1)(i) Determines that it has been treated under the direction of an inspector[4] in accordance with part 305 of this chapter, or

(ii) Determines based on inspection of the article and the premises of origin that it is free from sugarcane diseases;[5]

(2) Determines that it 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)[6] to prevent the spread of sugarcane diseases; and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines applicable to the article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if the inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved:

(i) For a specified purpose (such as for consumption or manufacturing) stated on the limited permit, other than for processing or harvesting sugarcane; and

(ii) To a specified destination stated on the limited permit, which is not in a county or parish where sugarcane is produced, and which is not within 10 miles of a sugarcane field;

(2) Determines that it 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)[6] to prevent the spread of sugarcane diseases; and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines applicable to the article.

(c) Certificates and limited permits for shipments of regulated articles may be issued by an inspector or by any person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the person has treated the regulated article to destroy infection in accordance with the provisions of § 301.87–10 of this subpart and

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

[4] Treatments shall be monitored by inspectors in order to assure compliance with requirements in this subpart.

[5] The term *sugarcane diseases* means leaf scald disease with respect to movement of regulated articles from Hawaii and means gummosis disease and leaf scald disease with respect to movements of regulated articles from Puerto Rico.

[6] 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).

the inspector has made the determination that the article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that the article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that the article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if the inspector determines that its holder has not complied with any condition under the regulations for its use. 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 Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

[48 FR 50059, Oct. 31, 1983, as amended at 66 FR 21053, Apr. 27, 2001; 75 FR 4241, Jan. 26, 2010]

§ 301.87–6 Compliance agreement; cancellation.

(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 regulated articles under this subpart.[7] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, in which the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant to such provisions.

(b) Any compliance agreement may be canceled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant to such provisions. If the cancellation is oral, the decision and the reasons for the cancellation shall be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Deputy Administrator within ten 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 the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

[48 FR 50059, Oct. 31, 1983, as amended at 59 FR 67609, Dec. 30, 1994]

§ 301.87–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.87–5(c) of this subpart) 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

[7] Compliance Agreement forms are available without charge 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, and from local offices of Plant Protection and Quarantine. (Local offices are listed in telephone directories.)