

### § 301.91-7

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 attached 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.

<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.

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(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: 72 FR 8597, Feb. 27, 2007, unless otherwise noted.

#### § 301.92 Restrictions on interstate movement.

(a) No person may move interstate from any quarantined area any regulated, restricted, or associated article or any other nursery stock except in accordance with this subpart.<sup>1</sup>

(b) No person may move interstate from any nursery in any regulated area any nursery stock except in accordance with this subpart.

(c) No person may move interstate from any quarantined or regulated area any regulated restricted, or associated article or nursery stock that has been tested with a test approved by APHIS and found infected with *Phytophthora ramorum*, or that is part of a plant that was found infected with *Phytophthora ramorum*, unless such movement is in accordance with part 330 of this chapter.

#### § 301.92-1 Definitions.

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

<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).

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

*Associated article.* Any article listed in § 301.92-2(c).

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

*Certificate.* A document, stamp, or imprint by which an inspector or person operating under a compliance agreement affirms that a specified regulated or associated article meets applicable requirements 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 or associated articles, wherein the person agrees to comply with 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.

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

*Forest stock.* All flowers, trees, shrubs, vines, scions, buds, or other plants that are wild-grown, backyard-grown, or naturally occurring.

*From.* An article is considered to be "from" a specific site or location for the purposes of this subpart if it was grown or propagated in, stored or sold, or distributed from the site or location.

*Growing media.* Any material in which plant roots are growing or intended for that purpose.

*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.

*Lot.* A contiguous block of plants of the same species or cultivar, of the same container size and from the same source, if known.

*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 allowed 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 or as part of a growing media mixture.

*Non-host nursery stock.* Any taxa of nursery stock not listed in § 301.92-2 as a regulated or associated article.

*Nursery.* Any location where nursery stock is grown, propagated, stored, or sold, or any location from which nursery stock is distributed. Locations that grow trees for sale without roots (*e.g.*, as Christmas trees) are considered to be nurseries for the purposes of this subpart.

*Nursery stock.* All plants for planting, including houseplants, propagative material that is grown in a nursery, and tree seedlings for reforestation, except the following: Seeds; turf or sod; bulbs, tubers, corms, or rhizomes;<sup>2</sup> greenhouse grown cactus, succulents, and orchids; aquarium grown aquatic plants; greenhouse, container, or field grown palms; greenhouse, container, or field grown cycads, and tissue culture plants grown in vitro; and plants meeting the definition of forest stock.

*Permit.* A written authorization issued by APHIS to allow the interstate movement of restricted articles in accordance with part 330 of this chapter.

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

*Plant Protection and Quarantine.* The Plant Protection and Quarantine program of the 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-

<sup>2</sup>Bulbs, tubers, corms, or rhizomes are only considered nursery stock (and therefore, regulated under this subpart) if they are of plant taxa listed in § 301.92-2 as regulated articles or associated articles.

3(a)(3) of this subpart or otherwise designated as a quarantined area in accordance with § 301.92-3(a)(2) of this subpart.

*Regulated area.* Any area listed in § 301.92-3(b) of this subpart.

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

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

*Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material.

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

**§ 301.92-2 Restricted, regulated, and associated articles; lists of proven hosts and associated plant taxa.**

(a) *Restricted articles.* The following are restricted articles:

(1) Bark chips or mulch<sup>3</sup> located in a quarantined area and that are proven host plant taxa listed in paragraph (d) of this section.

(2) Forest stock located or grown in a quarantined area and that are proven host plant taxa or associated plant taxa listed in paragraph (d) or (e) of this section.

(3) Any other product or article that an inspector determines to present a risk of spreading *Phytophthora ramorum*, if an inspector notifies the person in possession of the product or article that it is a restricted article.

(b) *Regulated articles.* The following are regulated articles:

(1) Nursery stock, decorative trees without roots, unprocessed wood and wood products, and plant products, including firewood, logs, lumber,<sup>4</sup> wreaths, garlands, and greenery of proven host plant taxa listed in paragraph (d) of this section.

(2) Soil and growing media.

(3) Any other product or article that an inspector determines to present a

risk of spreading *Phytophthora ramorum* if an inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

(c) *Associated articles.* The following are associated articles: Nursery stock of associated plant taxa listed in paragraph (e) of this section.

(d) *Proven host plant taxa.* The following are proven hosts of *Phytophthora ramorum*:

- \**Acer macrophyllum* Bigleaf maple
- \**Acer pseudoplatanus* Planetree maple
- \**Adiantum aleuticum* Western maidenhair fern
- \**Adiantum jordanii* California maidenhair fern
- \**Aesculus californica* California buckeye
- \**Aesculus hippocastanum* horse chestnut
- \**Arbutus menziesii* Madrone
- \**Arctostaphylos manzanita* Manzanita
- \**Calluna vulgaris* Scotch heather
- \**Camellia* spp. Camellia—all species, hybrids and cultivars
- \**Castanea sativa* Sweet chestnut
- \**Fagus sylvatica* European beech
- \**Frangula californica* (= *Rhamnus californica*) California coffeeberry
- \**Frangula purshiana* (= *Rhamnus purshiana*) Cascara
- \**Fraxinus excelsior* European ash
- \**Griselinia littoralis* Griselinia
- \**Hamamelis virginiana* Witch hazel
- \**Heteromeles arbutifolia* Toyon
- \**Kalmia* spp. Kalmia—includes all species, hybrids, and cultivars
- \**Laurus nobilis* Bay laurel
- \**Lithocarpus densiflorus* Tanoak
- \**Lonicera hispidula* California honeysuckle
- \**Maianthemum racemosum* (= *Smilacina racemosa*) False Solomon's seal
- \**Michelia doltsopa* Michelia
- \**Parrotia persica* Persian ironwood
- \**Photinia fraseri* Red tip photinia
- \**Pieris* spp. Pieris—includes all species, hybrids, and cultivars
- \**Pseudotsuga menziesii* var. *menziesii* and all nursery-grown *P. menziesii* Douglas fir
- Quercus agrifolia* Coast live oak
- Quercus cerris* European turkey oak
- Quercus chrysolepis* Canyon live oak
- Quercus falcata* Southern red oak
- \**Quercus illex* Holm oak
- Quercus kelloggii* California black oak
- Quercus parvula* var. *shrevei* and all nursery grown *Q. parvula* Shreve's oak
- \**Rhododendron* spp. Rhododendron (including azalea)—includes all species, hybrids, and cultivars
- \**Rosa gymnocarpa* Wood rose
- \**Salix caprea* Goat willow
- \**Sequoia sempervirens* Coast redwood
- \**Syringa vulgaris* Lilac
- \**Taxus baccata* European yew

<sup>3</sup>Bark chips or mulch of species listed in paragraph (d) of this section and that are marked with an asterisk (\*) are not restricted articles.

<sup>4</sup>Firewood, logs, and lumber of species listed in paragraph (d) of this section and that are marked with an asterisk (\*) are not regulated articles.