

(i) The nursery from which the nursery stock originates has been inspected in accordance with § 301.92-11(c) and found free of evidence of *Phytophthora ramorum* infestation; and

(ii) All nursery stock in the nursery have not been grown in, or moved from, nurseries except those that have been inspected for *Phytophthora ramorum* in accordance with § 301.92-11(c) and that have been found free of evidence of *Phytophthora ramorum* infestation, except that certified nurseries which receive articles from a non-certified nursery in a quarantined or regulated area may continue to ship other plants interstate, provided that the uncertified plants are safeguarded, segregated, and withheld from interstate movement until the plants are inspected and tested and found free of evidence of *Phytophthora ramorum*; and

(iii) The nursery stock is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)¹⁴ to prevent the spread of *Phytophthora ramorum*; and

(iv) The nursery stock is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the nursery stock.

(2) [Reserved]

(c) Certificates issued under paragraphs (a) and (b) of this section may be issued by any person engaged in the business of growing, processing, handling, or moving regulated or associated articles or nursery stock provided such person has entered into and is operating under a compliance agreement in accordance with § 301.92-6. Any such person may execute and issue a certificate for the interstate movement of regulated or associated articles or nursery stock if an inspector has previously made the determination that the article is eligible for a certificate in accordance with any applicable section of this subpart.

(d) Any certificate that has been issued may be withdrawn, either orally or in writing, by an inspector if he or

she determines that the holder of the certificate has not complied with all conditions in this subpart for the use of the certificate. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal.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. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control numbers 0579-0310 and 0579-0088)

§ 301.92-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, processing, handling, or moving regulated articles, associated articles, or non-host nursery stock may enter into a compliance agreement when an inspector determines that the person understands this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.¹⁵

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as

¹⁵ Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 160, Riverdale, MD 20737-1236, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories. Forms are also available on the Internet at <http://www.aphis.usda.gov/ppq/ispm/pramorun/resources.html>.

stock without a certificate under certain conditions.

¹⁴ See footnote 7 of this subpart.

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promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

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§ 301.92-7 Availability of inspectors; assembly for inspection.

(a) Any person (other than a person authorized to issue certificates under § 301.92-5(c)) who desires to move a regulated or associated article or non-host nursery stock interstate accompanied by a certificate must notify an inspector¹⁶ as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired time of inspection.

(b) The regulated or associated article or non-host nursery stock must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.92-8 Attachment and disposition of certificates and recordkeeping.

(a) A certificate required for the interstate movement of a regulated article, associated article, or non-host nursery stock must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article, associated article, or non-host nursery stock; or

(2) Attached to the regulated article, associated article, or non-host nursery stock itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate is attached to the consignee's copy of the waybill, the regulated article, associated article, or

non-host nursery stock must be sufficiently described on the certificate and on the waybill to identify the regulated article, associated article, or non-host nursery stock.

(b) The certificate for the interstate movement of a regulated article, associated article, or non-host nursery stock must be furnished by the carrier to the consignee listed on the certificate upon arrival at the location provided on the certificate.

(c) All nurseries that are operating under compliance agreements must maintain records of all incoming shipments of plants for a minimum of 24 months and must make them available to inspectors upon request. In addition, all nurseries that are operating under compliance agreements, except retail dealers, must maintain records of outgoing shipments for a minimum of 24 months and must make them available to inspectors upon request.

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§ 301.92-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.92-10 Treatments.

Treatment schedules listed in part 305 of this chapter are authorized for use on certain regulated articles to prevent the spread of *Phytophthora ramorum*. The following treatments also may be used for the regulated articles indicated:

(a) *Soil*—Heat to a temperature of at least 180 °F at the center of the load for 30 minutes in the presence of an inspector.

(b) *Wreaths, garlands, and greenery of host material*—Dip for 1 hour in water that is held at a temperature of at least 160 °F.

(c) *Bay leaves*—Treat with vacuum heat in accordance with part 305 of this chapter.

¹⁶ See footnote 7 of this subpart.