

free of a pest), the movement presents low risk of disseminating pests. With a certificate, the article may be moved interstate without further restrictions. Limited permits are issued for regulated articles when an inspector has determined that, because of possible pest or disease risk, such articles may be safely moved interstate only subject to further restrictions, such as movement to specified areas and movement for specified purposes. Section 301.53–5 sets out the conditions for issuing certificates and limited permits for movement from areas quarantined for EAB and for canceling certificates and limited permits.

Paragraph (a) of 301.53–5 provides that an inspector or a person operating under a compliance agreement (discussed below) will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

- Is apparently free of EAB, based on inspection, or the article has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading EAB;
- Is to be moved in compliance with any additional emergency conditions the Administrator may impose under the Plant Protection Act to prevent the artificial spread of EAB; and
- Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Paragraph (b) of 301.53–5 provides for the issuance of a limited permit (rather than a certificate) by an inspector or person operating under a compliance agreement for movement of a regulated article if he or she determines that the regulated article:

- Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and the interstate movement will not result in the artificial spread of EAB because EAB will be destroyed by the specific processing, handling, or utilization;
- Is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under the Plant Protection Act to prevent the artificial spread of EAB; and
- Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Paragraph (c) of 301.53–5 provides that an inspector will issue blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates or limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of § 301.53–5(a) or § 301.53–5(b), respectively.

Paragraph (d) of 301.53–5 provides that a certificate or limited permit may be canceled by an inspector, orally or in writing, whenever the inspector determines that the holder of the certificate or limited permit has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose certificate or limited permit has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

#### *Compliance Agreements*

Section 301.53–6 provides for the use and cancellation of compliance agreements. Under § 301.53–6(a), compliance agreements may be entered into by any person engaged in the growing, handling, or interstate movement of regulated articles if such persons review with an inspector each stipulation of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the regulations.

Paragraph (b) of 301.53–6 explains that a compliance agreement may be canceled by an inspector, orally or in writing, whenever the inspector determines that the person who entered into the compliance agreement has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon oral notification by the inspector. The

cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

#### *Assembly and Inspection of Regulated Articles*

Paragraph (a) of § 301.53–7 provides that any person who requires certification or other services from an inspector must request the services at least 48 hours before they are needed. Paragraph (b) of § 301.53–7 provides that regulated articles must be assembled at the place and in the manner an inspector designates as necessary to comply with the regulations.

#### *Attachment and Disposition of Certificates and Limited Permits*

In § 301.53–8, paragraph (a) requires that regulated articles intended for interstate movement be plainly marked with the name and address of the consignor and the name and address of the consignee and that, during the interstate movement, the certificate or limited permit issued for the interstate movement of regulated articles be attached to either: (1) The regulated article, (2) the container carrying the regulated article, or (3) the accompanying waybill. However, the certificate or limited permit may be attached to the consignee's copy of the waybill only if the certificate or limited permit and the waybill contain a sufficient description of the regulated article to identify the regulated article. This provision is necessary for enforcement purposes.

Paragraph (b) of 301.89–9 requires the carrier of the article to furnish the certificate or limited permit to the consignee at the shipment's destination.

#### *Costs and Charges*

Section 301.53–9 provides that the services of an inspector are provided without cost during normal business hours to persons requiring those services to comply with the regulations. The user will be responsible for all costs