

federa! register

THURSDAY, NOVEMBER 16, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 222

Pages 24321-24410



HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

ECONOMIC STABILIZATION—IRS rules relating to notice of apparent liability for rent violations 24334

DOMESTIC QUARANTINES—

USDA revises golden nematode regulations..... 24330

USDA revises Japanese beetle regulations by adding Alabama and Missouri to list of regulated States..... 24327

RELOCATION ASSISTANCE AND PROPERTY ACQUISITION—USDA proposes regulations for equitable treatment in conjunction with Federal financially assisted programs; comments within 45 days..... 24357

POSTAL SERVICE—Miscellaneous amendments regarding apartment house mail boxes, records reproduction, disposition of valuables recovered by inspectors and conduct on Postal Service property (2 documents)..... 24346

DRUGS—

HEW requires warning statements regarding side effects from use of intramammary infusion products containing corticosteroid drugs... 24343

HEW revises sterility test for ampicillin trihydrate 24344

HEW announces opportunity for hearing to withdraw approval of metaxalone tablets; hearing requests within 30 days..... 24374

CONSTRUCTION SAFETY—Labor Dept. amendments 24345

PUBLIC LANDS—Interior Dept. notice of opening in Arizona..... 24337

(Continued inside)

Continued

Latest Edition

Guide to Record Retention Requirements

[Revised as of January 1, 1972]

This useful reference tool is designed to keep businessmen and the general public informed concerning the many published requirements in Federal laws and regulations relating to record retention.

The 92-page "Guide" contains over 1,000 digests which tell the user (1) what type records must be kept, (2) who must keep them, and (3) how long

they must be kept. Each digest carries a reference to the full text of the basic law or regulation providing for such retention.

The booklet's index, numbering over 2,200 items, lists for ready reference the categories of persons, companies, and products affected by Federal record retention requirements.

Price: \$1.00

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

**Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402**



Area Code 202

Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$2.50 per month or \$25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

HIGHLIGHTS—Continued

NATURAL GAS—

- FPC provides for hearing on and suspension of certain proposed rate changes..... 24387
- FPC proposes special incentive to encourage recovery; comments by 12-26-72..... 24370

TRUTH IN LENDING—FRS amends Regulation Z regarding credit card liability (effective 12-15-72) and disclosures for open end credit accounts (effective 6-1-73); interpretation regarding plans with variable rate features (2 documents)..... 24337, 24339

SHIP RADAR STATIONS—FCC amendments to clarify requirements concerning servicing; effective 12-22-72..... 24354

APPLICATIONS FOR CABLE TV AND DOMESTIC SATELLITE SYSTEM FACILITIES—FCC notices of procedural changes (2 documents)..... 24382, 24383

COMPREHENSIVE PLANNING ASSISTANCE GRANT—HUD miscellaneous amendments; effective 11-16-72..... 24345

MINE WALL COATING—Interior Dept. notice of availability of license for invention..... 24371

MERCHANT MARINE EXAMINATION—Coast Guard proposes changes in requirements for Second and Third Mate and Second and Third Assistant Engineer; comments within 45 days.... 24366

SUBSIDY FOR CARGO VESSELS CARRYING GRAIN TO THE U.S.S.R.—Commerce Dept. revised regulations; effective 10-21-72..... 24349

NUCLEAR POWER PLANTS—AEC issues new safety guide on quality assurance program requirements..... 24378

PUBLIC MEETINGS—

- National Advisory Council on Supplementary Centers and Services, 12-8 and 12-9-72..... 24391
- Labor Dept.: Labor Research Advisory Council, 11-28 and 11-29-72..... 24394
- HEW: Advisory Committee on Older Americans, 11-17-72..... 24377
- Secretary's Advisory Committee on Population Affairs, 11-21-72..... 24377
- Ad Hoc Interagency Committee on Third Party Prepaid Prescription Drug Program, 11-21-72..... 24377
- Interior Dept.: Western Regional Advisory Committee, 11-21-72..... 24371
- CAB: Montana and North Dakota Aeronautics Commissions, 11-28-72..... 24382

Contents

AGRICULTURAL MARKETING SERVICE

- Rules and Regulations
- Navel oranges grown in Arizona and part of California; limitation of handling..... 24333
- Proposed Rule Making
- Milk in New York-New Jersey marketing area; hearing on amendments to marketing agreement..... 24357

AGRICULTURE DEPARTMENT

- See also Agricultural Marketing Service; Animal and Plant Health Inspection Service.
- Proposed Rule Making
- Uniform relocation assistance and real property acquisition policies..... 24357
- Notices
- Georgia; designation of areas for emergency loans..... 24372

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

- Rules and Regulations
- Golden nematode; domestic quarantine..... 24330

- Hog cholera and other swine diseases; release of areas quarantined (2 documents)..... 24335, 24336
- Japanese beetle; domestic quarantine..... 24327
- Poultry and other birds in California; extraordinary emergency regulation of certain intrastate activities..... 24336

ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND MANAGEMENT OFFICE

- Rules and Regulations
- Comprehensive planning assistance amendments..... 24345

ATOMIC ENERGY COMMISSION

- Notices
- Power Authority of the State of New York; availability of draft environmental statement and supplemental reports..... 24378
- Power Reactor Development Co.; rescheduled prehearing conference..... 24378
- Safety guides; issuance and availability..... 24378
- Southern California Edison Co. and San Diego Gas & Electric Co.; further notice and order for prehearing conference..... 24379

CIVIL AERONAUTICS BOARD

- Notices
- Hearings, etc.:
- Aerolineas Argentinas..... 24379
- Frontier Airlines, Inc..... 24380
- Delta Air Lines, Inc..... 24381
- Montana and North Dakota Aeronautics Commissions..... 24382

COAST GUARD

- Proposed Rule Making
- Merchant marine officers and seamen; Second and Third Mates and Second and Third Assistant Engineers; additional examination subject..... 24366

COMMERCE DEPARTMENT

See Import Programs Office; Maritime Administration.

FEDERAL AVIATION ADMINISTRATION

- Rules and Regulations
- Standard instrument approach procedures; recent changes and additions..... 24340
- Transition area; alteration..... 24340

(Continued on next page)

Proposed Rule Making

- Control zone and transition areas; establishment and designation (2 documents)..... 24367

FEDERAL COMMUNICATIONS COMMISSION**Rules and Regulations**

- Adrian, Mich. and West Lafayette, Ind.; table of assignments; FM broadcast stations..... 24353
- Stations on shipboard in maritime services; servicing of ship radar stations..... 24354

Proposed Rule Making

- FM broadcast stations; table of assignments:
- Stone Harbor-Avalon-Cape May Court House, N.J..... 24368
- Union Springs and Tallassee, Ala..... 24369

Notices

- Cable television applications and pleadings; revision of amendment requirements..... 24382
- Domestic satellite system facilities; processing procedures..... 24383

FEDERAL MARITIME COMMISSION**Notices**

- Agreements filed:
- American Export Lines, Inc., et al..... 24384
- Universal Alco Limited et al..... 24385
- American Great Lakes-Mediterranean Eastbound Freight Conference..... 24385
- Independent ocean freight forwarder licenses:
- International Freight Services, et al.; applications..... 24385
- J. S. Stass Co., Inc.; revocation..... 24385
- Jadranska Linijska Plovidba-Rijeka:
- Issuance of casualty certificate..... 24386
- Issuance of performance certificate..... 24386
- N.V. Nederlandsch-Amerikaansche Stoomvaart-Maatschappij "Holland-Amerika Lijn" (Holland America Line); revocation of certificates of financial responsibility..... 24386

FEDERAL POWER COMMISSION**Rules and Regulations**

- Forms; producers form for reporting reserves dedication..... 24342

Proposed Rule Making

- Natural gas presently flared or vented; special relief to encourage recovery..... 24370

Notices**Hearings, etc.:**

- Humble Oil & Refining Co. et al..... 24387
- Central Vermont Public Service Corp..... 24386
- Dorchester Exploration, Inc..... 24386
- Indiana & Michigan Electric Co..... 24388
- KKK Corp..... 24388
- McCulloch Interstate Gas Corp..... 24388
- Mississippi River Transmission Corp..... 24389
- Prentiss, Dorothea B..... 24387
- Southern Hydrocarbons Production Co., Inc..... 24389

FEDERAL RESERVE SYSTEM**Rules and Regulations**

- Truth in lending; open end credit: Credit cards; issuance and liability..... 24337
- Disclosures; variable periodic rates..... 24339

Notices

- Acquisitions of banks:
- First at Orlando Corp..... 24389
- First Financial Corp..... 24390
- First Steuben Corp..... 24390
- First Arkansas Bankstock Corp.; amended application..... 24389
- Oakland Bankshares, Inc.; formation of bank holding company and proposed retention of insurance company..... 24390
- Orbanco, Inc.; proposed acquisition of Far West Securities Co..... 24390

FISH AND WILDLIFE SERVICE**Rules and Regulations**

- Crescent Lake National Wildlife Refuge, Nebr.; sport fishing..... 24356
- Kenai National Moose Range, Alaska; public access, use, and recreation..... 24355
- Wichita Mountains Wildlife Refuge; hunting..... 24356

FOOD AND DRUG ADMINISTRATION**Rules and Regulations**

- Ampicillin; sterility test method procedure..... 24344
- Corticosteroid drugs; statements of policy and interpretation regarding animal drugs and medicated feeds..... 24343

Notices

- A. H. Robins Co., Inc.; metaxalone tablets; opportunity for hearing on proposal to withdraw approval of new drug application..... 24374

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Rules and Regulations

- Food and Drug Administration; conduct standards..... 24347

Notices**Committee meetings:**

- Ad Hoc Interagency Committee on Third Party Prepaid Prescription Drug Programs..... 24377
- Advisory Committee on Population Affairs..... 24377
- Advisory Committee on Older Americans..... 24377
- Statements of organization, functions, and delegations of authority:
- Health Services and Mental Health Administration..... 24375
- Office of the Assistant Secretary for Health..... 24377

HEARINGS AND APPEALS OFFICE**Notices**

- Washington Irrigation and Development Co.; petition for modification of mandatory safety standard..... 24372

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Assistant Secretary for Community Planning and Management Office.

IMPORT PROGRAMS OFFICE**Notices**

- Decisions on applications for duty-free entry of scientific articles:
- Brooklyn College, et al..... 24372
- Department of Chief Medical Examiner-Coroner, et al..... 24373
- Stanford University..... 24373
- University of Pennsylvania..... 24374
- University of Washington..... 24374

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau; Mines Bureau; National Park Service.

INTERNAL REVENUE SERVICE**Rules and Regulations**

- Economic stabilization procedural rules; notice of apparent liability for rent violations..... 24334

INTERSTATE COMMERCE COMMISSION**Rules and Regulations**

- Lease and interchange of vehicles by motor carriers..... 24355

Notices	
Assignment of hearings.....	24395
Denver and Rio Grande Western Railroad Co. and Southern Pacific Transportation Co.; exception from service order.....	24396
Fourth section applications for relief.....	24396
Motor carriers:	
Board transfer proceedings.....	24396
Broker, water carrier and freight forwarder applications.....	24397
Rerouting or diversion of traffic: Penn Central Transportation Co.....	24396
Western Maryland Railway Co.....	24397

JUSTICE DEPARTMENT

Rules and Regulations	
Authorizations; certification of obligations.....	24345

LABOR DEPARTMENT

See Labor Statistics Bureau; Occupational Safety and Health Administration.

LABOR STATISTICS BUREAU

Notices	
Labor Research Advisory Council Committees; meetings and agenda.....	24394

LAND MANAGEMENT BUREAU

Rules and Regulations	
Arizona; withdrawal of lands for protection of recreation and public values; correction.....	24337
Notices	
Arizona; filing of plat of survey and order providing for opening of public lands.....	24371
California; filing of plat of survey.....	24371

MARITIME ADMINISTRATION

Rules and Regulations	
Operating-differential subsidy; bulk cargo vessels carrying agricultural commodities from U.S. to U.S.S.R.....	24349

MINES BUREAU

Notices	
Mine wall coating; availability of license for invention.....	24371

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

Notices	
Public meeting.....	24391

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Rules and Regulations	
Organization and general information statement.....	24340

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules and Regulations	
New pneumatic tires, tire selection, and rims for passenger cars; correction.....	24355

NATIONAL PARK SERVICE

Notices	
Western Regional Advisory Committee; public meeting.....	24371

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules and Regulations	
Construction safety and health regulations; miscellaneous amendments.....	24345
Notices	
Mobil Oil Refinery, Paulsboro, N.J.; decision of Regional Administrator concerning inspection.....	24395

POSTAL SERVICE

Rules and Regulations	
Conduct of offices; postal losses and offenses.....	24346
Miscellaneous amendments to chapter.....	24346

Notices

Buildings and grounds and surplus real property; management and disposal; restatement of interim regulations.....	24390
---	-------

PRICE COMMISSION

Rules and Regulations	
Rent stabilization; rent adjustment; annual increment.....	24333

SECURITIES AND EXCHANGE COMMISSION

Notices	
Hearings, etc.:	
Middle South Utilities, Inc., et al.....	24391
Second Federal Street Fund, Inc.....	24392

SMALL BUSINESS ADMINISTRATION

Notices	
Brentwood Associates, Inc.; application for licensee as small business investment company.....	24393
Declarations of disaster loan areas:	
Arizona.....	24393
Colorado.....	24393
Filing of applications for transfer of control of licensed small business investment companies:	
Karr Investment Corp.....	24394
Northern Business Capital Corp.....	24394
Investor Enterprises, Inc.; surrender of license.....	24393

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

Rules and Regulations	
Urban Mass Transportation Administrator; authority delegation.....	24354

TREASURY DEPARTMENT

See Internal Revenue Service.

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

6 CFR

301----- 24333
401----- 24334

7 CFR

301 (2 documents)----- 24327, 24330
907----- 24333
PROPOSED RULES:
21----- 24357
1002----- 24357

9 CFR

76 (2 documents)----- 24335, 24336
90----- 24336

12 CFR

226 (2 documents)----- 24337, 24339

14 CFR

71----- 24340
97----- 24340
1201----- 24340
PROPOSED RULES:
71 (2 documents)----- 24367

18 CFR

250----- 24342
PROPOSED RULES:
2----- 24370

21 CFR

135----- 24343
149b----- 24344

24 CFR

600----- 24345

28 CFR

0----- 24345

29 CFR

1926----- 24345

39 CFR

155----- 24346
232----- 24346
243----- 24346
262----- 24346
946----- 24346

43 CFR**PUBLIC LAND ORDERS:**

1985 (see PLO 5263)----- 24337
5263----- 24337

45 CFR

73a----- 24347

46 CFR

294----- 24349
PROPOSED RULES:
10----- 24366

47 CFR

73----- 24353
83----- 24354
PROPOSED RULES:
73 (2 documents)----- 24368, 24369

49 CFR

1----- 24354
571----- 24355
1003----- 24355

50 CFR

28----- 24355
32----- 24356
33----- 24356

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

MISCELLANEOUS AMENDMENTS

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 48 relating to the Japanese beetle and regulations supplemental to said quarantine (7 CFR 301.48, 301.48-1, 301.48-2, 301.48-3 et seq.), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

- Sec.
301.48 Quarantine; restriction on interstate movement of specified regulated articles.
301.48-1 Definitions.
301.48-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit or other requirements.
301.48-3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.48-4 Issuance and cancellation of certificates and permits.
301.48-5 Compliance agreement, and cancellation thereof.
301.48-6 Assembly and inspection of regulated articles.
301.48-7 Attachment and disposition of certificates or permits.
301.48-8 Inspection and disposal of regulated articles and pests.
301.48-9 Movement of live Japanese beetles.
301.48-10 Nonliability of the Department.
§ 301.48 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* (1) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing that it was necessary to quarantine the States² of Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia,

West Virginia, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within and throughout the United States and accordingly quarantined said States.

(2) Pursuant to the said provisions and after public hearing the Secretary has now determined that it is necessary also to quarantine the States of Alabama and Missouri to prevent the spread of the Japanese beetle. Under the authority of said provisions, the Secretary hereby quarantines the States of Alabama and Missouri, and continues in effect the quarantine of the other specified States as aforesaid, with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.48-1(o) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area, or any area outside the regulated areas, in a quarantined State:
(i) Soil, compost, decomposed manure, humus, muck, and peat, separately or with other things;

(ii) Plants with roots, except soil-free aquatic plants, moss, and Lycopodium (clubmoss or ground pine or running pine);

(iii) Grass sod;

(iv) Plant crowns and roots for propagation;

(v) True bulbs, corms, rhizomes, and tubers of ornamental plants, when freshly harvested or uncured;

(vi) Used mechanized soil-moving equipment;

(vii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) through (vi) of this subparagraph, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Bulk soil.

(ii) Used mechanized soil-moving equipment.

(iii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subdivisions (i) and (ii) of this subparagraph, when it is determined by an inspector that

they present a hazard of spread of the Japanese beetle and the person in possession thereof has been so notified.

§ 301.48-1 Definitions.

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

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.48-2.

(e) *Infestation.* The presence of the Japanese beetle or the existence of circumstances that make it reasonable to believe that the Japanese beetle is present.

(f) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State into or through any other State.

(h) *Japanese beetle.* The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development.

(i) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

(j) *Mechanized soil-moving equipment.* Mechanized equipment used to move or

² See definition of "State" in § 301.48-1(s).

transport soil—e.g., draglines, bulldozers, road scrapers, dumptrucks, etc.

(k) *Moved (movement, move)*. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(l) *Person*. Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(m) *Plant protection and quarantine programs*. The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(n) *Regulated area*. Any quarantined State, or any portion thereof, listed as a regulated area in § 301.48-2a or otherwise designated as a regulated area in accordance with § 301.48-2(b).

(o) *Regulated articles*. Any articles as described in § 301.48-2(b).

(p) *Restricted destination permit*. A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(q) *Scientific permit*. A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(r) *Soil*. That part of the upper layer of earth in which plants can grow.

(s) *State*. Any State, territory, or district of the United States, including Puerto Rico.

(t) *Suppressive area*. That part of a regulated area where all establishments handling regulated articles, except products being produced on the farm, have been treated for eradication of the Japanese beetle and where eradication of the entire infestation in that part of the regulated area is undertaken as the objective, as designated by the Deputy Administrator under § 301.48-2(a).

(u) *Treatment manual*. The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Japanese Beetle Quarantine," the manual of "Procedures for Applying Soil Surface and Foliage Treatments for Regulatory Purposes," and the "Fumigation Procedures Manual."¹

§ 301.48-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas*. The Deputy Ad-

ministrator shall list as regulated areas, in a supplemental regulation designated as § 301.48-2(a), each quarantined State; or each portion thereof in which Japanese beetle has been found or in which there is reason to believe that Japanese beetle is present or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.48-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the Japanese beetle.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas*. The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.48-2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area*. The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area or suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements*. The Deputy Administrator may, in a supplemental regulation designated as § 301.48-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the move-

ment of such regulated articles which make it safe to so relieve such requirements.

§ 301.48-3 Conditions governing the interstate movement of regulated articles from quarantined States.²

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.48-4 and 301.48-7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the Japanese beetle and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under subparagraph (2) of this paragraph; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.48-2b which exempts certain articles from certification and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the Japanese beetle exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(a) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.48-2b; or

(b) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to

¹ Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

² Requirements under all other applicable Federal domestic plant quarantines must also be met.

laboratories approved³ by the Deputy Administrator and so listed by him in a supplemental regulation.⁴ A certificate or permit will not be required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.48-4 and 301.48-7. A certificate or permit will not be required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.48-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles not eligible for certification under this subpart to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the Japanese beetle and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles may be issued by the Deputy Administrator under such conditions as may be pre-

scribed in each specific case by the Deputy Administrator to prevent the spread of the Japanese beetle.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles, provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate or permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.48-5 Compliance agreement, and cancellation thereof.

(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 such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.48-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.48-4(e))

who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.48-7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.48-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of or require disposal of regulated articles and Japanese beetles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.48-9 Movement of live Japanese beetles.

Regulations requiring a permit for and otherwise governing the movement of live Japanese beetles in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.48-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart other than for the services of the inspector.

Pursuant to a notice of hearing and proposed rule making published in the FEDERAL REGISTER on January 7, 1972 (37 F.R. 218), a public hearing was held in Memphis, Tenn., on February 15, 1972, regarding the proposed quarantining of the States of Alabama and Missouri on account of the Japanese beetle. After due consideration of all relevant information presented at the hearing or otherwise available in the Department, it has been decided to add Alabama and Missouri to the list of States quarantined because of Japanese beetle.

The foregoing revision differs from the notice of proposed rule making in some

³ Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Program, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

⁴ For list of approved laboratories, see PP 639 (37 F.R. 7813, 15526, and amendments thereof).

respects. Appropriate changes are made to reflect the reorganization of the Animal and Plant Health Inspection Service. The responsibility for enforcement of Federal domestic plant quarantines has been transferred from Animal and Plant Health Service to Animal and Plant Health Inspection Service. In addition § 301.48-4 was amended to restrict the issuance of certificates by a holder of a compliance agreement to the issuance of certificates based on compliance with treatment and other requirements. Various other changes are also made.

The revision of the quarantine makes more stringent Japanese beetle requirements than presently applied and it should be made effective promptly in order to prevent the spread of the Japanese beetle and to be of maximum benefit to the noninfested States.

Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice of rule making and other public procedures with respect to the revision are impracticable and unnecessary, and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER. This revision will become effective upon publication in the FEDERAL REGISTER and shall supersede the quarantine and regulations contained in §§ 301.48, 301.48-1, 301.48-2, and §§ 301.48-3 through 301.48-10. The provisions in § 301.48-2b remain in effect. The provisions of § 301.48-2a are being revised by a separate document.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 152, 150ee; 29 F.R. 16210, as amended, 37 F.R. 6505)

Done at Washington, D.C., this 10th day of November 1972.

F. J. MULHERN,
Administrator, Animal and
Plant Health Inspection Service.

[FR Doc. 72-19762 Filed 11-15-72; 8:52 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Golden Nematode

Pursuant to sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), Notice of Quarantine No. 85 relating to the golden nematode and regulations supplemental to said Quarantine (7 CFR 301.85, 301.85-1, 301.85-2, 301.85-3 et seq.), are hereby revised to read as follows:

QUARANTINE AND REGULATIONS

- Sec.
301.85 Quarantine; restriction on interstate movement of specified regulated articles.
301.85-1 Definitions.
301.85-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

- Sec.
301.85-3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.85-4 Issuance and cancellation of certificates and permits.
301.85-5 Compliance agreement, and cancellation thereof.
301.85-6 Assembly and inspection of regulated articles.
301.85-7 Attachment and disposition of certificates or permits.
301.85-8 Inspection and disposal of regulated articles and pests.
301.85-9 Movement of live golden nematodes.
301.85-10 Nonliability of the Department.

§ 301.85 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing that it was necessary to quarantine the State of New York in order to prevent the spread of the golden nematode (*Heterodera rostochiensis*), which causes a dangerous disease of potatoes and certain other plants, and not theretofore widely prevalent or distributed within and throughout the United States. Therefore, under the authority of said provisions, the Secretary hereby continues to quarantine the State of New York, with respect to the interstate movement from the quarantined State of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.85-1(q) as regulated articles), except in accordance with the conditions prescribed in this subpart:

- (1) Soil, compost, humus, muck, peat, and decomposed manure, separately or with other things.
- (2) Plants with roots, except soil-free aquatic plants.
- (3) Grass sod.
- (4) Plant crowns and roots for propagation.
- (5) True bulbs, corms, rhizomes, and tubers of ornamental plants.
- (6) Irish potatoes and other root crops.
- (7) Small grains and soybeans.
- (8) Hay, straw, fodder, and plant litter, of any kind.
- (9) Ear corn, except shucked ear corn.
- (10) Used crates, boxes, and burlap bags, and other used farm products containers.
- (11) Used farm tools.
- (12) Used mechanized cultivating equipment and used harvesting equipment.
- (13) Used mechanized soil-moving equipment.

(14) Any other products, articles, or means of conveyance of any character whatsoever, not covered by subparagraphs (1) through (13) of this paragraph, when it is determined by an inspector that they present a hazard of spread of golden nematode, and the person in possession thereof has been so notified.

§ 301.85-1 Definitions.

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

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Farm tools.* An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.85-2.

(f) *Golden nematode.* The nematode known as the golden nematode (*Heterodera rostochiensis*), in any stage of development.

(g) *Infestation.* The presence of the golden nematode or the existence of circumstances that make it reasonable to believe that the golden nematode is present.

(h) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the Quarantine and regulations in this subpart.

(i) *Interstate.* From any State into or through any other State.

(j) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization or processing or for treatment.

(k) *Mechanized cultivating equipment; and mechanized harvesting equipment.* Mechanized equipment used for