

or any State, territory, or possession of the United States.

§ 301.74-2 Regulated articles.

The following are regulated articles:

(a) All plant material and plant parts of *Prunus* (stone fruit) species other than *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*, except for seeds and fruit that is free of leaves and other plant parts. This includes, but is not limited to, trees, seedlings, root stock, budwood, branches, twigs, and leaves.

(b) Any other product or article that an inspector determines to present a risk of spreading plum pox when the inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

§ 301.74-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which plum pox has been detected through inspection and laboratory testing, or in which the Administrator has reason to believe that plum pox is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which plum pox has been detected. Less than an entire State will be designated as a quarantined area if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of plum pox.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this reg-

ulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which the quarantine designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

PENNSYLVANIA

Adams County. The townships of Latimore and Huntington.

§ 301.74-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

The interstate movement of any regulated article from a quarantined area² is prohibited except when:

(a) The regulated article is moved by the United States Department of Agriculture:

(1) For an experimental or scientific purpose;

(2) Pursuant to a Departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plum pox; and

(4) With a tag or label bearing the number of the Departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container; or

(b) The regulated article originated outside the quarantined area and:

(1) Is moved in an enclosed vehicle or is completely enclosed by a covering (such as canvas, plastic, or other closely woven cloth) adequate to prevent access by aphids or other transmission

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

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agents of plum pox while in the quarantined area;

(2) The regulated article's point of origin is indicated on the waybill; and

(3) The regulated article must not be uncovered, unpacked, or unloaded while moving through the quarantined area.

§ 301.74-5 Compensation.

(a) *Eligibility.* The following individuals are eligible to receive compensation from the U.S. Department of Agriculture to mitigate losses or expenses incurred because of the plum pox quarantine and emergency actions:

(1) *Owners of commercial stone fruit orchards.* The owner of a commercial stone fruit orchard will be eligible to receive compensation for losses associated with the destruction of trees in order to control plum pox pursuant to an emergency action notification issued by the Animal and Plant Health Inspection Service (APHIS).

(2) *Owners of fruit tree nurseries.* The owner of a fruit tree nursery will be eligible to receive compensation for net revenue losses associated with the prohibition on the movement or sale of nursery stock as a result of the issuance of an emergency action notification by APHIS with respect to regulated articles within the nursery in order to control plum pox.

(b) *Amount of payment.* Upon approval of a claim submitted in accordance with paragraph (c) of this section, individuals eligible for compensation under paragraph (a) of this section will be paid at the rates indicated in this paragraph.

(1) *Owners of commercial stone fruit orchards.* Owners of commercial stone fruit orchards who meet the eligibility requirements of paragraph (a)(1) of this section will be compensated on a per-acre basis at a rate based on the age of the trees destroyed. If the trees were not destroyed by the date specified on the emergency action notification, the compensation payment will be reduced by 10 percent and by any tree removal costs incurred by the State or the U.S. Department of Agriculture (USDA). The maximum USDA compensation rate is 85 percent of the loss in value, adjusted for any State-provided compensation to ensure total compensation

from all sources does not exceed 100 percent of the loss in value.

Age of trees (years)	Maximum compensation rate (\$/acre, equal to 85% of loss in value)
1	4,805
2	7,394
3	9,429
4	12,268
5	14,505
6	14,918
7	15,000
8	14,709
9	14,383
10	14,015
11	13,601
12	13,136
13	12,613
14	12,024
15	11,361
16	10,616
17	9,854
18	9,073
19	8,272
20	7,446
21	6,594
22	5,789
23	5,035
24	4,341
25	3,713

(2) *Owners of fruit tree nurseries.* Owners of fruit tree nurseries who meet the eligibility requirements of paragraph (a)(2) of this section will be compensated for up to 85 percent of the net revenues lost from their first and second year crops as the result of the issuance of an emergency action notification which will be calculated as follows:

(i) *First year crop.* The net revenue loss for trees that were expected to be sold in the year during which the emergency action notification was issued (*i.e.*, the first year crop) will be calculated as (*expected number of trees to be sold*) × (*average price per tree*) – (*digging, grading, and storage costs*) = net revenue lost for first year crop, where:

(A) The expected number of trees to be sold equals the number of trees in the field minus 2 percent culls minus 3 percent unsold trees; and

(B) The average price per tree is \$4.65; and

(C) Digging, grading and storage costs are \$0.10 per tree.

(ii) *Second year crop.* The net revenue loss for trees that would be expected to be sold in the year following the year