

upon microscopic examination of soil samples that viable golden nematodes may still exist (consult product label for heavier dosage in muck or peat soils); soil to be from 4.5 °C to 32 °C (40 °F to 90 °F).

(D) Application of Vapam (sodium-N-methyl dithiocarbamate, 32.7 percent active ingredient) mixed with water at the rate of 1 part Vapam to 60 parts water and applied as a drench at the rate of 14.96 cubic meters per hectare (1600 gallons per acre); soil to be from 4.5 °C to 32 °C (40 °F to 90 °F).

(7) Root crops other than Irish potatoes.

(8) Small grains and soybeans.

(9) Hay, straw, fodder, and plant litter, of any kind.

(10) Ear corn, except shucked ear corn.

(11) Used crates, boxes, and burlap bags, and other used farm products containers.

(12) Used farm tools.

(13) Used mechanized cultivating equipment and used harvesting equipment.

(14) Used mechanized soil-moving equipment.

(15) Any other products, articles, or means of conveyance of any character whatsoever, not covered by paragraphs (b) (1) through (14) of this section, 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.

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12331, Mar. 23, 1982]

#### § 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 re-

quirements 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 soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., combines, potato conveyors, and harvesters and hay balers.

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(l) *Mechanized soil-moving equipment.* Equipment used for moving or transporting soil, e.g., draglines, bulldozers, dump trucks, road scrapers, etc.

(m) *Moved (movement, move).* Shipped, deposited for transmission in the mail, otherwise offered for shipment, received for transportation, carried, or otherwise transported, or moved, or allowed to be moved, by mail or otherwise. "Movement" and "move" shall be construed in accordance with this definition.

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

(o) *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.

(p) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301-85-2a, or otherwise designated as a regulated area in accordance with § 301.85-2(b).

(q) *Regulated article.* Any articles as described in § 301.85(b).

(r) *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.

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

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

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

(v) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.85-2(a).

(w) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Golden

Nematode Quarantine" and the "Fumigation Procedures Manual."<sup>1</sup>

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### **§ 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.**

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85-2a, each quarantined State; or each portion thereof in which golden nematode has been found or in which there is reason to believe that golden nematode 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 § 301.85-1. 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 golden nematode.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator

<sup>1</sup>Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector.