

§ 301.78-2

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with §301.78-5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

Mediterranean fruit fly. The insect known as Mediterranean fruit fly *Ceratitidis capitata* (Wiedemann) in any stage of development.

Moved (Move, Movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Quarantined area. Any State, or any portion of a State, listed in §301.78-3(c) of this subpart or otherwise designated as a quarantined area in accordance with §301.78-3(b) of this subpart.

Regulated article. Any article listed in §301.78-2(a) or (b) of this subpart or otherwise designated as a regulated article in accordance with §301.78-2(c) of this subpart.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory or possession of the United States.

[56 FR 57576, Nov. 13, 1991; 56 FR 63550, Dec. 4, 1991; 62 FR 33538, June 20, 1997; 62 FR 47556, Sept. 10, 1997; 72 FR 69138, Dec. 7, 2007]

§ 301.78-2 Regulated articles.

The following are regulated articles:

(a) The following berries, fruits, nuts, and vegetables.

Almond with husk (*Prunus dulcis* (*P. amygdalus*))
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Black Myrobalan (*Terminalia cherbula*)
Blueberry (*Vaccinium* spp.)

7 CFR Ch. III (1-1-08 Edition)

Cherries (sweet and sour) (*Prunus avium*, *P. cerasus*)
Citrus citron (*Citrus medica*)
Date (*Phoenix dactylifera*)
Eggplant (*Solanum melongena* L.), other than commercially produced eggplant
Fig (*Ficus carica*)
Grape (*Vitis* spp.)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*)
Japanese persimmon (*Diospyros kaki*)
Japanese plum (*Prunus salicina*)
Kiwi (*Actinidia chinensis*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except smooth-skinned lemons harvested for packing by commercial packing houses.
Lemon, Meyer (*Citrus limon×reticulata*)
Lemon, Rough (*Citrus jambhiri*)
Lime, sweet (*Citrus aurantiifolia*)
Loquat (*Eriobotrya japonica*)
Mandarin orange (*Citrus reticulata*) (tangerine)
Mango (*Mangifera indica*)
Mock orange (*Murraya exotica*)
Mountain apple (*Syzgium malaccense* (*Eugenia malaccensis*))
Natal plum (*Carissa macrocarpa*)
Nectarine (*Prunus persica* var. *nectarina*)
Olive (*Olea europea*)
Opuntia cactus (*Opuntia* spp.)
Orange, calamondin (*Citrus reticulata* x. *Fortunella*)
Orange, Chinese (*Fortunella japonica*)
Orange, king (*Citrus reticulata* x. *C. sinensis*)
Orange, sweet (*Citrus sinensis*)
Orange, Unshu (*Citrus reticulata* var. *Unshu*)
Papaya (*Carica papaya*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepper (*Capsicum frutescens*, *C. annum*)
Pineapple guava (*Feijoa sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prune (*Prunus domestica*)
Pummelo (*Citrus grandis*)
Quince (*Cydonia oblonga*)
Rose apple (*Eugenia jambos*)
Sour orange (*Citrus aurantium*)
Spanish cherry (*Brazilian plum*) (*Eugenia dombeyi* (*E. brasiliensis*))
Strawberry guava (*Psidium cattleianum*)
Surinam cherry (*Eugenia uniflora*)
Tomato (pink and red ripe) (*Lycopersicon esculentum*)
Walnut with husk (*Juglans* spp.)
White sapote (*Casimiroa edulis*)
Yellow oleander (Bestill) (*Thevetia peruviana*)

Any berries, fruits, nuts, or vegetables that are canned or dried or frozen below -17.8 °C. (0 °F.) are not regulated articles.

(b) Soil within the drip area of plants that are producing or have produced the berries, fruits, nuts, or vegetables listed in paragraph (a) of this section.

(c) Any other article, product, or means of conveyance, not covered by paragraphs (a) or (b) of this section, that presents a risk of spread of the Mediterranean fruit fly and an inspector notifies the person in possession of it that the article, product, or means of conveyance is subject to the restrictions of this subpart.

[56 FR 57576, Nov. 13, 1991, as amended at 59 FR 25791, May 18, 1994; 62 FR 33538, June 20, 1997; 62 FR 47556, Sept. 10, 1997; 72 FR 69138, Dec. 7, 2007]

§ 301.78-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion of a State, in which the Mediterranean fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Mediterranean fruit fly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Mediterranean fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to 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 the Mediterranean fruit fly.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing such area. The Administrator will give a copy of this regulation along with a written notice of this 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 is 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 shall be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

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

CALIFORNIA

Santa Clara County. That portion of Santa Clara County in the San Jose area bounded by a line as follows: Beginning at the intersection of Interstate 880 and Montague Expressway; then northeast and east on Montague Expressway to Trade Zone Boulevard; then southeast and northeast on Trade Zone Boulevard to Cropley Avenue; then northeast on Cropley Avenue to Old Piedmont Road; then northwest on Old Piedmont Road to Berryessa Creek; then northeast, east, southeast, northeast, southeast, northeast, east, and northeast along Berryessa Creek to its intersection with Berryessa Creek Branch; then southeast from Berryessa Creek Branch along an imaginary line to the intersection of Sierra Road and the City of San Jose boundary line; then northeast, southeast, southwest, southeast, northeast, southeast, southwest, and southeast along the City of San Jose boundary line to Alum Rock Falls Road; then southeast, northeast, southeast, southwest, southeast, northeast, southeast, northeast, east, southeast, southwest, northwest, southwest, southeast, southwest, northwest, southwest, southeast, southwest, southwest, northwest, west, southeast, northwest, west, and southwest on Alum Rock Falls Road to State Highway 130; then southeast on State Highway 130 to Quimby Road; then southwest, northwest, southwest, northwest, southwest, and south on Quimby Road to Buckeye Ranch; then southeast and southwest on Buckeye Ranch to its southwesternmost point; then southwest from that point along an imaginary line to the northeasternmost point of Fowler Road; then southwest, southeast, east, southeast, northwest, southwest, southeast, south, west, northwest, and west on Fowler Road to Yerba Buena Road; then south and west on Yerba Buena Road to San Felipe Road; then