

of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

§ 301.97-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.97-5(c)) who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector⁸ as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.97-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article, or

(2) Attached to the regulated article itself if not in a container, or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

(Approved by the Office of Management and Budget under control number 0579-0088)

⁸ See footnote 4 to § 301.97-5(a).

§ 301.97-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.97-10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy the melon fruit fly are authorized for use on regulated articles. The following treatments also may be used for the regulated articles indicated:

(a) *Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.97-2(a) of this subpart.* Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to at least a depth of ½ inch.

(b) [Reserved]

[65 FR 8636, Feb. 22, 2000, as amended at 67 FR 8465, Feb. 25, 2002; 70 FR 33268, June 7, 2005]

Subpart—West Indian Fruit Fly

SOURCE: 66 FR 6433, Jan. 22, 2001, unless otherwise noted.

§ 301.98 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.¹

§ 301.98-1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the

¹ Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 414 of the Plant Protection Act (Title IV, Pub. L. 106-224, 114 Stat. 444, 7 U.S.C. 7714).

United States Department of Agriculture.

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of West Indian fruit fly and may be moved interstate to any destination.

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with this subpart.

Core area. The 1-square-mile area surrounding each property where West Indian fruit fly has been detected.

Day degrees. A mathematical construct combining average temperature over time that is used to calculate the length of a West Indian fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F: (Minimum Daily Temp+ Maximum Daily Temp)/2) - 59°=Day Degrees.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with §301.98-4(c) of this subpart.

Dripline. The line around the canopy of a plant.

Infestation. The presence of the West Indian fruit fly or the existence of circumstances that makes it reasonable to believe that the West Indian fruit fly is present.

Inspector. Any employee of the APHIS, U.S. Department of Agriculture, or other person authorized by the Administrator to perform the duties required under 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 §301.98-5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

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.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in §301.98-3(c) of this subpart or otherwise designated as a quarantined area in accordance with §301.98-3(b) of this subpart.

Regulated article. Any article listed in §301.98-2 or otherwise designated as a regulated article in accordance with §301.98-2(d).

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

West Indian fruit fly. The insect known as the West Indian fruit fly, *Anastrepha obliqua* (Macquart), in any stage of development.

[66 FR 6433, Jan. 22, 2001; 66 FR 20186, Apr. 20, 2001]

§ 301.98-2 Regulated articles.

The following are regulated articles:

- (a) West Indian fruit flies.²
- (b)(1) The following fruits and vegetables:
 - Barbados cherry (*Malpighia glabra*)
 - Carambola (*Averrhoa carambola*)
 - Granadilla, giant (*Passiflora quadrangularis*)
 - Guava (*Psidium guajava*)
 - Guava, strawberry (*Psidium littorale*)
 - Hog-plum (*Spondias mombin*)
 - Japanese plum (*Prunus salicina*)
 - Jew plum (*Spondias cytherea*)
 - Ketembilla (*Dovyalis hebecarpa*)
 - Loquat (*Eriobotrya japonica*)
 - Malay-apple (*Syzygium malaccense*)
 - Mango (*Mangifera indica*)
 - Passion fruit (*Passiflora edulis*)
 - Peach (*Prunus persica*)
 - Pear (*Pyrus communis*)

²Permit and other requirements for the interstate movement of West Indian fruit flies are contained in part 330 of this chapter.