

Animal and Plant Health Inspection Service, USDA**§ 301.32-1**

(1) The State(s) or area(s) into which the plant or plant part is allowed to be imported is quarantined with respect to that plant or plant part; and

(2) No person shall move any plant or plant part from any such quarantined State or area into or through any State or area not quarantined with respect to that plant or plant part.

Subpart—Fruit Flies

SOURCE: 73 FR 32432, June 9, 2008, unless otherwise noted.

§301.32 Restrictions on interstate movement of regulated articles.

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

(b) Section 414 of the Plant Protection Act (7 U.S.C. 7714) provides that the Secretary of Agriculture may, under certain conditions, hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, plant product, article, or means of conveyance that is moving, or has moved into or through the United States or interstate if the Secretary has reason to believe the article is a plant pest or is infested with a plant pest at the time of movement.

§301.32-1 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 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 fruit flies and may be moved interstate to any destination.

Commercially produced. Fruits and vegetables that an inspector identifies

as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, monocultural practices, pest management programs, good sanitation practices including destruction of culls, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the shipment to a wholesaler or retailer.

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 area within a circle surrounding each site where fruit flies have been detected using a ½-mile radius with the detection site as a center point.

Day degrees. A unit of measurement used to measure the amount of heat required to further the development of fruit flies through their life cycle. Day-degree life cycle requirements are calculated through a modeling process specific for each species of fruit fly.

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 §301.32-4(c).

Dripline. The line around the canopy of a plant.

Fruit fly (fruit flies). The melon fruit fly, Mexican fruit fly, Mediterranean fruit fly, Oriental fruit fly, peach fruit fly, sapote fruit fly, or West Indian fruit fly, or other species of insects found in the family Tephritidae, collectively.

Infestation. The presence of fruit flies or the existence of circumstances that makes it reasonable to believe that fruit flies are present.

Inspector. Any employee of APHIS 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

¹Permit and other requirements for the interstate movement of any of the fruit flies regulated under this subpart are contained in part 330 of this chapter.

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a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with §301.32-5(b) only to a specified destination and only in accordance with specified conditions.

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

Melon fruit fly. The insect known as the melon fruit fly, *Bactrocera cucurbitae* (Coquillett), in any stage of development.

Mexican fruit fly. The insect known as Mexican fruit fly, *Anastrepha ludens* (Loew), in any stage of development.

Move (moved, movement). Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved.

Oriental fruit fly. The insect known as Oriental fruit fly, *Bactrocera dorsalis* (Hendel), in any stage of development.

Peach fruit fly. The insect known as peach fruit fly, *Anastrepha zonata* (Saunders), in any stage of development.

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service

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that has been delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

Quarantined area. Any State, or any portion of a State, designated as a quarantined area in accordance with §301.32-3.

Regulated article. Any article listed in §301.32-2 or otherwise designated as a regulated article in accordance with §301.32-2(d).

Sapote fruit fly. The insect known as the sapote fruit fly, *Anastrepha serpentina*, in any stage of development.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other 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.

§ 301.32-2 Regulated articles.

(a) In the following table, the berry, fruit, nut, or vegetable listed in each row in the left column is a regulated article for each of the fruit fly species listed in that row in the right column, unless the article is canned, dried, or frozen below -17.8°C (0°F):

Botanical name	Common name(s)	Fruit fly
<i>Abelmoschus esculentus</i> = <i>Hibiscus esculentus</i> .	Okra	Melon, Peach.
<i>Acca sellowiana</i> = <i>Feijoa sellowiana</i>	Pineapple guava	Mediterranean, Oriental, Peach.
<i>Actinidia chinensis</i>	Kiwi	Mediterranean.
<i>Aegle marmelos</i>	Indian bael	Peach.
<i>Anacardium occidentale</i>	Cashew	Oriental.
<i>Annona cherimola</i>	Cherimoya	Mexican, Oriental, Peach.
<i>Annona glabra</i>	Pond-apple	Sapote.
<i>Annona muricata</i>	Soursop	Melon, Oriental, Peach.
<i>Annona reticulata</i>	Custard apple, Annona	Melon, Mexican, Oriental, Peach.
<i>Annona squamosa</i>	Custard apple	Peach.
<i>Artocarpus altilis</i>	Breadfruit	Oriental.
<i>Artocarpus heterophyllus</i>	Jackfruit	Oriental.
<i>Averrhoa carambola</i>	Carambola, Country gooseberry	Oriental, West Indian.
<i>Benincasa hispida</i>	Melon, Chinese	Melon.
<i>Brassica juncea</i>	Mustard, leaf	Melon.
<i>Brassica oleracea</i> var. <i>botrytis</i>	Cauliflower	Melon.
<i>Brosimum alicastrum</i>	Ramon	West Indian.
<i>Byrsonima crassifolia</i>	Nance	Sapote.
<i>Calophyllum inophyllum</i>	Alexandrian-laurel, Laurel	Oriental.
<i>Cananga odorata</i>	Ylang-Ylang	Oriental.
<i>Capsicum annum</i>	Pepper, chili	Mediterranean, Melon, Oriental.
<i>Capsicum frutescens</i>	Pepper, tabasco	Mediterranean, Melon.
<i>Capsicum frutescens abbreviatum</i>	Oriental bush red pepper	Oriental.
<i>Capsicum frutescens</i> var. <i>grossum</i>	Pepper, sweet	Oriental.

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Botanical name	Common name(s)	Fruit fly
<i>Carica papaya</i>	Papaya	Mediterranean, Melon, Oriental, Peach.
<i>Carissa grandiflora</i>	Natal plum	Oriental.
<i>Carissa macrocarpa</i>	Natal plum	Mediterranean.
<i>Casimiroa edulis</i>	Sapote, white	Mediterranean.
<i>Casimiroa greggii</i> = <i>Sargentia greggii</i>	Sargentia, yellow chapote	Mexican.
<i>Casimiroa</i> spp	Sapote	Mexican.
<i>Cereus coeruleus</i>	Cactus	Oriental.
<i>Chrysophyllum cainito</i>	Star apple	Oriental, Sapote.
<i>Chrysophyllum oliviforme</i>	Caimitillo	Oriental.
<i>Citrofortunella japonica</i>	Orange, calamondin	Peach.
<i>Citrullus colocynthis</i>	Colocynth	Melon.
<i>Citrullus lanatus</i> = <i>Citrullus vulgaris</i>	Watermelon	Melon, Peach.
<i>Citrullus</i> spp	Melon	Melon.
<i>Citrus aurantiifolia</i>	Lime	Mediterranean, Mexican, ¹ Oriental, Peach.
<i>Citrus aurantium</i>	Orange, sour	Mediterranean, Mexican, Oriental, Peach.
<i>Citrus jambhiri</i>	Lemon, Rough	Mediterranean.
<i>Citrus latifolia</i>	Lime, Persian	Oriental.
<i>Citrus limon</i>	Lemon	Mediterranean, ² Mexican, ³ Oriental, Peach.
<i>Citrus limon</i> x <i>reticulata</i>	Lemon, Meyer	Mediterranean.
<i>Citrus madurensis</i> = x <i>Citrofortunella mitis</i>	Orange, Panama	Sapote.
<i>Citrus maxima</i> = <i>Citrus grandis</i>	Pummelo or Shaddock	Mediterranean, Mexican, Oriental, Peach.
<i>Citrus medica</i>	Citrus citron	Mediterranean, Mexican, Peach.
<i>Citrus paradisi</i>	Grapefruit	Mediterranean, Melon, Mexican, Oriental, Peach.
<i>Citrus reticulata</i>	Mandarin orange, tangerine	Mediterranean, Mexican, Oriental, Peach.
<i>Citrus reticulata</i> var. <i>Unshu</i>	Orange, Unshu	Mediterranean, Oriental.
<i>Citrus reticulata</i> x <i>C. sinensis</i> = <i>Citrus nobilis</i> .	Orange, king	Mediterranean, Melon, Oriental, Peach.
<i>Citrus reticulata</i> x <i>Fortunella</i>	Orange, calamondin	Mediterranean, Mexican, Oriental.
<i>Citrus sinensis</i>	Orange, sweet	Mediterranean, Melon, Mexican, Oriental, Peach.
<i>Citrus</i> spp	Citrus	Sapote.
<i>Clausena lansium</i>	Wampli	Oriental.
<i>Coccinia</i> spp	Gourds	Melon, Peach.
<i>Coccoloba uvifera</i>	Seagrape	Oriental.
<i>Coffea arabica</i>	Coffee, Arabian	Oriental.
<i>Crescentia</i> spp	Gourds	Melon, Peach.
<i>Cucumis melo</i> and <i>Cucumis melo</i> var. <i>Cantalupensis</i> .	Cantaloupe	Melon, Peach.
<i>Cucumis melo</i> var. <i>conomon</i>	Melon, oriental pickling	Melon.
<i>Cucumis pubescens</i> and <i>Cucumis trigonus</i> .	Cucurbit	Melon.
<i>Cucumis sativus</i>	Cucumber	Melon, Oriental, Peach.
<i>Cucumis utilisissimus</i>	Melon, long	Peach.
<i>Cucurbita maxima</i>	Squash	Melon.
<i>Cucurbita moschata</i>	Pumpkin, Canada	Melon.
<i>Cucurbita pepo</i>	Pumpkin	Melon.
<i>Cydonia oblonga</i>	Quince	Mexican, Mediterranean, Oriental, Peach, Sapote.
<i>Cyphomandra betaceae</i>	Tomato, tree	Melon.
<i>Diospyros digyna</i>	Black sapote	Sapote.
<i>Diospyros discolor</i>	Velvet apple	Oriental.
<i>Diospyros khaki</i>	Japanese persimmon	Mediterranean, Oriental.
<i>Diospyros</i> spp	Sapote	Sapote, West Indian.
<i>Dovyalis hebecarpa</i>	Kitebilla	Oriental, Sapote, West Indian.
<i>Dracena draco</i>	Dragon tree	Oriental.
<i>Elaeocarpus angustifolius</i>	Blue marletree; New Guinea quandong	Peach.
<i>Elaeocarpus grandiflorus</i>	Lily of the valley tree	Peach.
<i>Elaeocarpus madopetalus</i>	Ma-kok-nam	Peach.
<i>Eriobotrya japonica</i>	Loquat	Mediterranean, Oriental, Peach, West Indian.
<i>Eugenia brasiliensis</i> = <i>E. dombeyi</i>	Brazil-cherry, grumichama	Mediterranean, Oriental, Peach.
<i>Eugenia malaccensis</i>	Malay apple	Oriental.
<i>Eugenia uniflora</i>	Surinam cherry	Mediterranean, Oriental, Peach.
<i>Euphoria longan</i>	Longan	Oriental.
<i>Ficus benghalensis</i>	Fig, Banyan	Peach.
<i>Ficus carica</i>	Fig	Mediterranean, Melon, Oriental, Peach.
<i>Ficus macrophylla</i>	Fig, Moreton Bay	Peach.
<i>Ficus retusa</i>	Fig, glossy leaf	Peach.

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<i>Ficus rubiginosa</i>	Fig, Port Jackson	Peach.
<i>Ficus</i> spp	Fig	Peach.
<i>Fortunella japonica</i>	Chinese Orange, Kumquat	Mediterranean, Oriental, Peach.
<i>Garcinia celebica</i>	Gourka	Oriental.
<i>Garcinia mangostana</i>	Mangosteen	Oriental.
<i>Grewia asiatica</i>	Phalsa	Peach.
<i>Jubaea chilensis</i> = <i>Jubaea spectabilis</i>	Syrup palm	Oriental.
<i>Juglans hindsii</i>	Walnut	Oriental.
<i>Juglans regia</i>	Walnut, English	Oriental.
<i>Juglans</i> spp	Walnut with husk	Mediterranean.
<i>Lablab purpureus</i> subsp. <i>purpureus</i> = <i>Dolichos lablab</i> .	Bean, hyacinth	Melon.
<i>Lagenaria</i> spp	Gourds	Melon, Peach.
<i>Luffa acutangula</i>	Gourd, ribbed or ridged, luffa	Peach.
<i>Luffa aegyptiaca</i>	Gourd, smooth luffa, sponge	Peach.
<i>Luffa</i> spp	Gourds	Melon, Peach.
<i>Luffa vulgaris</i>	Gourd	Peach.
<i>Lychee chinensis</i>	Lychee nut	Oriental.
<i>Lycopersicon esculentum</i>	Tomato	Mediterranean, ⁴ Melon, Oriental, Peach.
<i>Madhuca indica</i> = <i>Bassia latifolia</i>	Mahua, mowra-buttertree	Peach.
<i>Malpighia glabra</i>	Cherry, Barbados	Oriental, West Indian.
<i>Malpighia puniceifolia</i>	West Indian cherry	Oriental.
<i>Malus sylvestris</i>	Apple	Mediterranean, Melon, Mexican, Oriental, Sapote, Peach.
<i>Mammea americana</i>	Mammy apple	Mexican, Oriental, Peach, Sapote.
<i>Mangifera foetida</i>	Mango, Bachang	Peach.
<i>Mangifera indica</i>	Mango	All.
<i>Mangifera odorata</i>	Kuine	Peach.
<i>Manilkara hexandra</i>	Sapodilla, balata	Peach.
<i>Manilkara jaimiqui</i> subsp. <i>emarginata</i>	Sapodilla, wild	Peach.
<i>Manilkara zapota</i>	Sapodilla, chiku	Oriental, Peach, Sapote, West Indian.
<i>Mimusops elengi</i>	Spanish cherry	Mediterranean, Oriental.
<i>Momordica balsamina</i>	Balsam apple, hawthorn	Peach.
<i>Momordica charantia</i>	Balsam pear, bitter melon	Peach.
<i>Momordica cochinchinensis</i>	Balsam apple, gac	Peach.
<i>Momordica</i> spp	Gourds	Melon, Peach.
<i>Morus nigra</i>	Mulberry	Oriental.
<i>Murraya exotica</i>	Mock orange	Mediterranean, Oriental.
<i>Musa x paradisiaca</i> = <i>Musa paradisiaca</i> subsp. <i>sapientum</i> .	Banana	Oriental.
<i>Musa acuminata</i> = <i>Musa nana</i>	Banana, dwarf	Oriental.
<i>Ochrosia elliptica</i>	Orange, bourbon	Peach.
<i>Olea europea</i>	Olive	Mediterranean.
<i>Opuntia ficus-indica</i> = <i>Opuntia megacantha</i> .	Prickly pear	Oriental.
<i>Opuntia</i> spp	Opuntia cactus	Mediterranean.
<i>Passiflora edulis</i>	Passionflower, passionfruit, yellow lilikoi	Melon, Oriental, West Indian.
<i>Passiflora laurifolia</i>	Lemon, water	Melon.
<i>Passiflora ligularis</i>	Granadilla, sweet	Oriental.
<i>Passiflora quadrangularis</i>	Granadilla, giant	West Indian.
<i>Passiflora tripartita</i> var. <i>mollissima</i>	Passionflower, softleaf	Oriental.
<i>Persea americana</i>	Avocado	Mediterranean, Melon, Mexican, Oriental, Peach, Sapote.
<i>Phaseolus lunatus</i> = <i>Phaseolus limensis</i>	Bean, lima	Melon.
<i>Phaseolus vulgaris</i>	Bean, mung	Melon.
<i>Phoenix dactylifera</i>	Date palm	Mediterranean, Melon, Oriental, Peach.
<i>Planchonia careya</i> = <i>Careya arborea</i>	Patana oak, kumbhi	Peach.
<i>Pouteria caimito</i>	Abiu	Sapote.
<i>Pouteria campechiana</i>	Eggfruit tree	Oriental, Sapote.
<i>Pouteria obovata</i>	Lucmo	Sapote.
<i>Pouteria viridis</i>	Sapote, green	Sapote.
<i>Prunus americana</i>	Plum, American	Mediterranean, Mexican, Oriental, Peach.
<i>Prunus armeniaca</i>	Apricot	Mediterranean, Mexican, Oriental, Peach.
<i>Prunus avium</i>	Sweet cherry	Mediterranean, Peach.
<i>Prunus cerasus</i>	Sour cherry	Mediterranean, Peach.
<i>Prunus domestica</i>	Plum, European	Mediterranean, Mexican, Oriental, Peach.
<i>Prunus dulcis</i> = <i>P. amygdalus</i>	Almond with husk	Mediterranean, Peach ⁵ .
<i>Prunus ilicifolia</i>	Cherry, Catalina	Oriental, Peach.
<i>Prunus lusitanica</i>	Cherry, Portuguese	Oriental, Peach.
<i>Prunus persica</i>	Peach	All.
<i>Prunus persica</i> var. <i>nectarine</i>	Nectarine	Mediterranean, Mexican, Oriental, Peach.

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Botanical name	Common name(s)	Fruit fly
<i>Prunus salicina</i>	Japanese plum	Mediterranean, Mexican, Peach, West Indian.
<i>Prunus salicina</i> x <i>Prunus cerasifera</i>	Methley plum	Peach.
<i>Psidium cattleianum</i>	Strawberry guava, Cattley guava	Mediterranean, Melon, Oriental.
<i>Psidium cattleianum</i> var. <i>cattleianum</i> f. <i>lucidum</i> .	Yellow strawberry guava	Peach.
<i>Psidium cattleianum</i> var. <i>littorale</i>	Red strawberry guava	Oriental, West Indian, Peach.
<i>Psidium guajava</i>	Guava	All.
<i>Punica granatum</i>	Pomegranate	Mediterranean, Mexican, Oriental, Peach.
<i>Pyrus communis</i>	Pear	All.
<i>Pyrus pashia</i>	Kaeuth	Peach.
<i>Pyrus pyrifolia</i>	Pear, sand	Peach.
<i>Rhodomyrtus tomentosa</i>	Myrtle, downy rose	Oriental.
<i>Sandoricum koetjape</i>	Santol	Oriental.
<i>Santalum album</i>	Sandalwood, white	Oriental.
<i>Santalum paniculatum</i>	Sandalwood	Oriental.
Sapotaceae	Sapota, Sapodilla	Mexican.
<i>Sechium edule</i>	Chayote	Melon.
<i>Sesbania grandiflora</i>	Scarlet wisteria tree	Melon.
<i>Sicyes</i> sp	Cucumber, bur	Melon.
<i>Solanum aculeatissimum</i>	Nightshade	Peach.
<i>Solanum mauritanium</i> = <i>S. auriculatum</i> ..	Tobacco, wild	Peach.
<i>Solanum melongena</i>	Eggplant	Mediterranean, ⁶ Melon, Peach.
<i>Solanum muricatum</i>	Pepino	Oriental, Peach.
<i>Solanum pseudocapsicum</i>	Jerusalem cherry	Oriental, Peach.
<i>Solanum searforthianum</i>	Nightshade, Brazilian	Peach.
<i>Solanum verbascifolium</i>	Nightshade, Mullein	Peach.
<i>Spondias dulcis</i> = <i>Spondias cytherea</i>	Otaheite apple, Jew plum	Oriental, West Indian.
<i>Spondias mombin</i>	Hog-plum	Sapote, West Indian.
<i>Spondias purpurea</i>	Red mombin	Sapote, West Indian.
<i>Spondias</i> spp	Spanish plum, purple mombin or Ciruela	Mexican.
<i>Spondias tuberosa</i>	Imbu	Oriental.
<i>Syzygium aquem</i>	Water apple, watery roseapple	Peach.
<i>Syzygium cumini</i>	Java plum, jambolana	Peach.
<i>Syzygium jambos</i> = <i>Eugenia jambos</i>	Rose apple	Mediterranean, Mexican, Oriental, Peach, West Indian.
<i>Syzygium malaccense</i> = <i>Eugenia malaccensis</i> .	Mountain apple, Malay apple	Mediterranean, Peach, West Indian.
<i>Syzygium samarangense</i>	Java apple	Peach.
<i>Terminalia bellirica</i>	Myrobalan, belleric	Peach.
<i>Terminalia catappa</i>	Tropical almond	Oriental, Peach.
<i>Terminalia chebula</i>	Myrobalan, black or chebulic	Mediterranean, Oriental, Peach.
<i>Thevetia peruviana</i>	Yellow oleander	Mediterranean, Oriental.
<i>Trichosanthis</i> spp	Gourds	Melon, Peach.
<i>Vaccinium</i> spp	Blueberry	Mediterranean.
<i>Vigna unguiculata</i>	Cowpea	Melon.
<i>Vitis</i> spp	Grapes	Mediterranean, Oriental.
<i>Vitis trifolia</i>	Grape	Melon.
<i>Wikstroemia phillyreifolia</i>	Akia	Oriental.
<i>Ziziphus mauritiana</i>	Chinese date, jujube	Peach.

¹ Sour limes are not regulated articles for Mexican fruit fly.² Only yellow lemons are regulated articles for Mediterranean fruit fly.³ Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon) are not regulated articles for Mexican fruit fly.⁴ Only pink and red ripe tomatoes are regulated articles for Mediterranean fruit fly.⁵ Harvested almonds with dried husks are not regulated articles for peach fruit fly.⁶ Commercially produced eggplants are not regulated articles for Mediterranean fruit fly.

(b) Plants of the following species in the family Curcubitaceae are regulated articles for the melon fruit fly only:

Cantaloupe (*Cucumis melo*)
 Chayote (*Sechium edule*)
 Colocynth (*Citrullus colocynthis*)
 Cucumber (*Cucumis sativus*)
 Cucumber, bur (*Sicyes* spp.)
 Cucurbit (*Cucumis pubescens* and *C. trigonus*)
 Cucurbit, wild (*Cucumis trigonus*)

Gherkin, West India (*Cucumis angaria*)
 Gourds (*Coccinia*, *Crescentia*, *Lagenaria*, *Luffa*, *Momordica*, and *Trichosanthis* spp.)
 Gourd, angled luffa (*Luffa acutangula*)
 Gourd, balsam apple (*Momordica balsamina*)
 Gourd, ivy (*Coccinia grandis*)
 Gourd, kakari (*Momordica dioica*)
 Gourd, serpent cucumber (*Trichosanthis anguina*)
 Gourd, snake (*Trichosanthis cucumeroides*)
 Gourd, sponge (*Luffa aegyptiaca*)
 Gourd, white flowered (*Lagenaria siceraria*)

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Melon, Chinese (*Benincasa hispida*)
 Melon, long (*Cucumis utilissimus*)
 Pumpkin (*Cucurbita pepo*)
 Pumpkin, Canada (*Cucurbita moschata*)
 Squash (*Cucurbita maxima*)
 Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

(c) Soil within the dripline of the plants listed in paragraph (b) of this section or plants that are producing or have produced any article listed in paragraph (a) of this section.

(d) Any other product, article, or means of conveyance not listed in paragraphs (a), (b), or (c) of this section that an inspector determines presents a risk of spreading fruit flies, when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

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§ 301.32-3 Quarantined areas.

(a) *Designation of quarantined areas.* In accordance with the criteria listed in paragraph (c) of this section, the Administrator will designate as a quarantined area each State, or each portion of a State, in which a fruit fly population subject to the regulations in this subpart has been found by an inspector, or in which the Administrator has reason to believe that a fruit fly population is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which a fruit fly population has been found. The Administrator will publish the description of the quarantined area on the Plant Protection and Quarantine Web site, http://www.aphis.usda.gov/plant_health/plant_pest_info/fruit_flies/index.shtml. The description of the quarantined area will include the date the description was last updated and a description of the changes that have been made to the quarantined area. The description of the quarantined area may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories. After a change is made to the quarantined area, we will publish a notice in the FEDERAL REGISTER informing the public that the

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change has occurred and describing the change to the quarantined area.

(b) *Designation of an area less than an entire State as a quarantined area.* 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 fruit fly.

(c) *Criteria for designation of a State, or a portion of a State, as a quarantined area.* A State, or a portion of a State, will be designated as a quarantined area when a fruit fly population has been found in that area by an inspector, when the Administrator has reason to believe that the fruit fly is present in that area, or when the Administrator considers it necessary to quarantine that area because of its inseparability for quarantine enforcement purposes from localities in which the fruit fly has been found.

(d) *Removal of a State, or a portion of a State, from quarantine.* A State, or a portion of a State, will be removed from quarantine when the Administrator determines that sufficient time has passed without finding additional flies or other evidence of infestation in the area to conclude that the fruit fly no longer exists in that area.

§ 301.32-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area² only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.32-5 and 301.32-8;

(b) Without a certificate or limited permit if:

(1) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is

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

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completely enclosed by a covering adequate to prevent access by fruit flies (such as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area; and

(3) The regulated article is moved through the quarantined area without stopping except for refueling or for traffic conditions, such as traffic lights or stop signs.

(c) Without a certificate or limited permit if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

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

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

(4) With a tag or label bearing the number of the 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.

(d) Hass avocados that are grown or packed in an area quarantined for Mexican or sapote fruit fly and that are moving interstate from such an area are subject to the following additional requirements:

(1) *Orchard sanitation and safeguarding requirements.* (i) Hass avocado fruit that has fallen from the trees may not be included in field boxes of fruit to be packed for shipping.

(ii) Harvested Hass avocados must be placed in field boxes or containers of field boxes that are marked to show the location of the orchard. The avocados must be moved from the orchard to the packinghouse within 3 hours of harvest or they must be protected from fruit fly infestation until moved.

(iii) Hass avocados must be protected from fruit fly infestations during their movement from the orchard to the packinghouse and must be accompanied by a field record indicating the

location of the orchard where the avocados originated.

(2) *Packinghouse requirements for Hass avocados packed within a quarantined area.* (i) All openings to the outside of the packinghouse must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents insects from entering the packinghouse.

(ii) The packinghouse must have double doors at the entrance to the facility and at the interior entrance to the area where the avocados are packed.

(iii) If the Hass avocados were grown in an orchard within the quarantined area, the identity of the avocados must be maintained from field boxes or containers to the shipping boxes in the packinghouse so that the avocados can be traced back to the orchard in which they were grown. The avocados must be packed in boxes or crates that are clearly marked with the identity of the grower and the packinghouse.

(iv) Any boxes of Hass avocados packed in the quarantined area must be placed in a refrigerated truck or refrigerated container and remain in that truck or container while in transit through the quarantined area. Prior to leaving the packinghouse, the truck or container must be secured with a seal that will be broken when the truck or container is opened. Once sealed, the refrigerated truck or refrigerated container must remain unopened until it is outside the quarantined area.

(v) Any avocados that have not been packed or loaded into a refrigerated truck or refrigerated container by the end of the workday must be kept inside the screened packinghouse.

(3) *Packinghouse requirements for Hass avocados packed outside a quarantined area but grown within a quarantined area.* Hass avocados grown in an orchard within a quarantined area but packed in a packinghouse outside the quarantined area must meet the requirements of paragraph (d)(2)(iii) of this section.

(Approved by the Office of Management and Budget under control numbers 0579-0088 and 0579-0336)

[73 FR 32432, June 9, 2008, as amended at 74 FR 31159, June 30, 2009; 75 FR 12962, Mar. 18, 2010]

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§ 301.32-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate may be issued by an inspector³ for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with §301.32-10; or

(ii) Based on inspection of the premises of origin, the premises are free from fruit flies; or

(iii) Based on inspection of the regulated article, the regulated article is free of fruit flies; or

(iv) The regulated articles are Hass variety avocados that have been harvested, safeguarded, and packed in accordance with the conditions in §301.32-4(d); and

(2) The regulated article will be moved through the quarantined area in an enclosed vehicle or will be completely enclosed by a covering adequate to prevent access by fruit flies; and

(3) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of fruit flies; and

(4) The regulated article is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector⁴ will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, processing, or utilization (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of fruit flies because life stages of the fruit flies will be destroyed by the specified handling, processing, or utilization;

(2) The regulated article is to be moved in compliance with any additional emergency conditions the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) to prevent the spread of fruit flies; and

(3) The regulated article is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for the interstate movement of regulated articles may be issued by an inspector or person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article if an inspector has determined that the regulated article is eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article when an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or limited permit has not complied with all conditions in this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. 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.

³Services of an inspector may be requested by contacting local PPQ offices, which are listed in telephone directories.

⁴See footnote 3.

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Rules of practice concerning a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control numbers 0579-0088 and 0579-0336)

[73 FR 32432, June 9, 2008, as amended at 74 FR 31160, June 30, 2009]

§ 301.32-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person is aware of this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.⁵

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with any of the conditions of this subpart or with any of the provisions of the compliance agreement. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all 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.

⁵Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Emergency and Domestic Programs, 4700 River Road Unit 134, Riverdale, MD 20737-1236, and from local PPQ offices, which are listed in telephone directories.

§ 301.32-7 Assembly and inspection of regulated articles.

(a) Any person, other than a person authorized to issue certificates or limited permits under §301.32-5(c), who desires to move a regulated article interstate accompanied by a certificate or limited permit must notify an inspector⁶ 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.

§ 301.32-8 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: Provided, however, that 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 listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

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

§ 301.32-9 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.

⁶See footnote 3 to §301.32-5(a).

§ 301.32–10**§ 301.32–10 Treatments.**

Regulated articles may be treated in accordance with part 305 of this chapter to neutralize fruit flies. 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 regulated articles listed § 301.32(a) or (b).* The following soil treatments may be used: 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 0.5 inch. Both immersion and pour-on treatment procedures are also acceptable.

(b) *Premises.* Fields, groves, or areas that are located within a quarantined area but outside the infested core area and that produce regulated articles may receive regular treatments with either malathion or spinosad bait spray as an alternative to treating fruits and vegetables as provided in part 305 of this chapter. These treatments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for development of fruit fly egg and larvae. Determination of the time period must be based on the day degrees model for the specific fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 oz of technical grade malathion and 9.6 oz of protein hydrolysate per acre. The spinosad bait spray treatment must be applied by aircraft or ground equipment at a rate of 0.01 oz of a USDA-approved spinosad formulation and 48 oz of protein hydrolysate per acre. For ground applications, the mixture may be diluted with water to improve coverage.

[73 FR 32432, June 9, 2008, as amended at 75 FR 4240, Jan. 26, 2010]

Subpart—Black Stem Rust

SOURCE: 54 FR 32791, Aug. 10, 1989, unless otherwise noted.

7 CFR Ch. III (1–1–11 Edition)**§ 301.38 Notice of quarantine; restrictions on interstate movement of regulated articles.**

The conterminous 48 States and the District of Columbia are quarantined in order to prevent the spread of black stem rust. No person shall move interstate any regulated article except in accordance with this subpart.¹

[54 FR 32791, Aug. 10, 1989, as amended at 66 FR 21050, Apr. 27, 2001]

§ 301.38–1 Definitions.

In this subpart the following definitions apply:

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

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Black stem rust. The disease commonly known as the black stem rust of grains (*Puccinia graminis*).

Certificate. A document in which an inspector, or a person operating under a compliance agreement, affirms that a specified regulated article has met the criteria in §301.38–5(b) of this subpart and may be moved interstate to any destination.

Clonally propagated. Reproduced asexually through cuttings, tissue culture, suckers, or crown division. For the purposes of this subpart, a *Berberis* plant will be considered clonally propagated only if its parent stock is, or was derived from, a seed-propagated black stem rust-resistant plant of more than 2 years' growth.

Compliance agreement. A written agreement between a State that is a protected area or that encompasses a protected area and a person who moves regulated articles interstate, or in a non-protected area between APHIS and

¹Any properly identified employee of the Animal and Plant Health Inspection Service 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 sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731).