

§ 301.10

301.93-10 Treatments.

Subpart—Melon Fruit Fly

301.97 Restrictions on interstate movement of regulated articles.

301.97-1 Definitions.

301.97-2 Regulated articles.

301.97-3 Quarantined areas.

301.97-4 Conditions governing the interstate movement of regulated articles from regulated areas.

301.97-5 Issuance and cancellation of certificates and limited permits.

301.97-6 Compliance agreements and cancellation.

301.97-7 Assembly and inspection of regulated articles.

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

301.97-9 Costs and charges.

301.97-10 Treatments.

Subpart—West Indian Fruit Fly

301.98 Restrictions on interstate movement of regulated articles.

301.98-1 Definitions.

301.98-2 Regulated articles.

301.98-3 Quarantined areas.

301.98-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

301.98-5 Issuance and cancellation of certificates and limited permits.

301.98-6 Compliance agreements and cancellation.

301.98-7 Assembly and inspection of regulated articles.

301.98-8 Attachment and disposition of certificates and limited permits.

301.98-9 Costs and charges.

301.98-10 Treatments.

Subpart—Sapote Fruit Fly

301.99 Restrictions on interstate movement of regulated articles.

301.99-1 Definitions.

301.99-2 Regulated articles.

301.99-3 Quarantined areas.

301.99-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

301.99-5 Issuance and cancellation of certificates and limited permits.

301.99-6 Compliance agreements and cancellation.

301.99-7 Assembly and inspection of regulated articles.

301.99-8 Attachment and disposition of certificates and limited permits.

301.99-9 Costs and charges.

301.99-10 Treatments.

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

Section 301.75-15 issued under Sec. 204, Title II, Public Law 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 issued under Sec. 203, Title II, Public Law 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

Subpart—Imported Plants and Plant Parts

SOURCE: 62 FR 61212, Nov. 17, 1997, unless otherwise noted.

§ 301.10 Definitions.

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.

State. Any State, territory, district, or possession of the United States.

§ 301.11 Notice of quarantine; prohibition on the interstate movement of certain imported plants and plant parts.

(a) In accordance with part 319 of this chapter, some plants and plant parts may only be imported into the United States subject to certain destination restrictions. That is, under part 319, some plants and plant parts may be imported into some States or areas of the United States but are prohibited from being imported into, entered into, or distributed within other States or areas, as an additional safeguard against the introduction and establishment of foreign plant pests and diseases.

(b) Under this quarantine notice, whenever any imported plant or plant part is subject to destination restrictions under part 319:

(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—Black Stem Rust

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

§ 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

such person, in which that person agrees to comply with this subpart.

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 under the conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the introduction of rust-susceptible varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia* into protected areas.

Inspector. Any APHIS employee or other person authorized by the Administrator in accordance with law to enforce this subpart.

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

Limited permit. A document issued by an inspector to allow the interstate movement into or through a protected area of regulated articles not eligible for certification under this subpart to a specified destination outside the protected area.

Moved (movement, move). 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. "Movement" and "move" shall be construed in accordance with this definition.

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

Protected area. Those States or counties designated in § 301.38-3(d) of this subpart.

Rust-resistant plants. All plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, and their progeny, that have proven resistant to black stem rust during testing by the United States Department of Agriculture,² and that are

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).

²Testing is performed by the Agricultural Research Service of USDA as follows: In a greenhouse, the suspect plant, or test subject, is placed under a screen with a control plant, *i.e.*, a known rust-susceptible variety of *Berberis*, *Mahoberberis*, or *Mahonia*. Infected wheat stems, a primary host of black stem rust, are placed on top of the screen.

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