

**§ 301.64 Restrictions on interstate movement of regulated articles.**

No person shall move any regulated article interstate from any quarantined area except in accordance with this subpart.<sup>1,2</sup>

[70 FR 37253, June 29, 2005]

**§ 301.64-1 Definitions.**

Terms used in the singular form in this subpart shall be construed as a plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

*Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.64-5(c).

*Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

*Core area.* The area within a circle surrounding each detection using a ½ mile radius with the detection 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 fruit fly species.

(Minimum Daily Temp + Maximum Daily Temp)/2 - 54° = Day Degrees.

*Departmental permit.* A document issued by the Administrator in which he or she affirms that the 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 § 301.64-4(c).

*Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

*Infestation.* The presence of the Mexican fruit fly or the existence of circumstances that make it reasonable to believe that the Mexican fruit fly is present.

*Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

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

*Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.64-5(b).

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

*Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

*Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

*Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 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, listed in § 301.64-3(c)

<sup>1</sup>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 sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

<sup>2</sup>Regulations concerning the movement of plant pests, including live Mexican fruit flies, in interstate commerce are contained in part 330 of this chapter.

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or otherwise designated as a quarantined area in accordance with § 301.64-3(b).

*Regulated article.* Any article listed in § 301.64-2 of otherwise designated as a regulated article in accordance with § 301.64-2(c).

*State.* Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other territories and possessions of the United States.

[48 FR 54580, Dec. 6, 1983, as amended at 57 FR 521, Jan. 7, 1992; 66 FR 21051, Apr. 27, 2001; 70 FR 37253, June 29, 2005; 72 FR 27950, May 18, 2007]

### § 301.64-2 Regulated articles.

(a) The following fruits are regulated articles:

Apple (*Malus sylvestris*)  
Apricot (*Prunus armeniaca*)  
Avocado (*Persea americana*)  
Calamondin orange (*X citrofortunella mitis*)  
Cherimoya (*Annona cherimola*)  
Citrus citron (*Citrus medica*)  
Custard apple (*Annona reticulata*)  
Grapefruit (*Citrus paradisi*)  
Guava (*Pisidium guajava*)  
Japanese plum (*Prunus salicina*)  
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)  
Lime (*Citrus aurantiifolia*) except sour limes  
Mamey (*Mammea americana*)  
Mandarin orange (tangerine) (*Citrus reticulata*)  
Mango (*Mangifera indica*)  
Nectarine (*Prunus persica*)  
Peach (*Prunus persica*)  
Pear (*Pyrus communis*)  
Plum (*Prunus americana*)  
Pomegranate (*Punica granatum*)  
Prune, Plum (*Prunus domestica*)  
Plummelo (Shaddock) (*Citrus maxima*)  
Quince (*Cydonia oblonga*)  
Rose apple (*Syzygium jambos* (*Eugenia jambos*))  
Sour orange (*Citrus aurantium*)  
Sapote (*Casimiroa* spp.)  
Sapota, Sapodilla (Sapotaceae)  
Sargentia, yellow chapote (*Sargentia greggii*)  
Spanish plum, purple mombin or Ciruela (*Spondias* spp.)  
Sweet orange (*Citrus sinensis*)

Except that the list does not include any fruits which have been canned, or frozen below  $-17.8^{\circ}\text{C}$  ( $0^{\circ}\text{F}$ );

(b) Soil within the drip line of plants which are producing or have produced

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the fruits listed in paragraph (a) of this section, and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) or paragraph (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Mexican fruit fly and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

[48 FR 54580, Dec. 6, 1983, as amended at 64 FR 71269, Dec. 21, 1999]

### § 301.64-3 Quarantined areas.

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

(b) The Deputy 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. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined