

**§ 301.53-6**

**§ 301.53-6 Compliance agreements and cancellation.**

(a) Persons engaged in growing, handling, or moving regulated articles interstate may enter into a compliance agreement<sup>3</sup> if such persons review with an inspector each provision of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

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**§ 301.53-7 Assembly and inspection of regulated articles.**

(a) Persons requiring certification or other services must request the serv-

<sup>3</sup>Compliance agreements may be initiated by contacting a local office of APHIS. The addresses and telephone numbers of local offices are listed in local telephone directories and may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, MD 20737-1236.

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ices from an inspector<sup>4</sup> at least 48 hours before the services are needed.

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

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**§ 301.53-8 Attachment and disposition of certificates and limited permits.**

(a) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the interstate movement of a regulated article securely attached at all times during interstate movement to:

(1) The regulated article;

(2) The container carrying the regulated article; or

(3) The consignee's copy of the accompanying waybill: *Provided*, that the description of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the destination of the shipment.

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**§ 301.53-9 Costs and charges.**

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

**Subpart—Mexican Fruit Fly Quarantine and Regulations**

SOURCE: 48 FR 54580, Dec. 6, 1983, unless otherwise noted.

<sup>4</sup>See footnote 1 to § 301.53-5.

**§ 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.