

§ 301.93

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

movement under certificate in accordance with §301.92-5.

(2) *Positive prescreening results.* If ELISA prescreening reveals the presence of *Phytophthora* spp. in any plants, each sample that returns positive ELISA results must be tested as provided in paragraph (b) of this section.

(b) *Mandatory testing procedures.* If ELISA prescreening is not performed, or if results of ELISA prescreening are positive for *Phytophthora* spp. in any sample, the sample must be analyzed using an APHIS-approved test. Samples will be considered positive for *Phytophthora ramorum* based on positive results of any approved test. Positive PCR or other molecular tests do not require confirmatory culture tests, nor do positive culture tests require confirmatory PCR or other molecular tests; however, if culture tests return other than positive results, an APHIS-approved PCR or other molecular test must be conducted, as provided in paragraph (b)(1) of this section.

(1) *PCR or other molecular tests—(i) Negative results.* If the results of PCR or other molecular tests are negative for all samples in a nursery, no further testing is required. The nursery may be considered free of evidence of *Phytophthora ramorum* and plants in the nursery are eligible for interstate movement under certificate in accordance with §301.92-5.

(ii) *Positive results.* If any samples tested using PCR or other molecular tests return positive results for *Phytophthora ramorum*, the nursery from which they originate is prohibited from moving plants interstate. The nursery will be eligible to ship certain plants interstate when an inspector determines that those plants are free of evidence of *Phytophthora ramorum*.

(2) *Culture Test—(i) Negative results.* If the results of culture tests are other than positive for any samples taken from a single nursery, plants in the nursery must continue to be withheld from shipment in accordance with §301.92-11 and each plant sample must be tested again using a PCR or other molecular test, as described in this section.

(ii) *Positive results.* If any culture tests return positive results for *Phytophthora ramorum*, the nursery

from which they originate is prohibited from moving plants interstate as directed by an inspector. The nursery will be eligible to ship certain plants interstate when an inspector determines that those plants are free of evidence of *Phytophthora ramorum*.

(c) *Other test methods.* Other test methods may be acceptable if approved by APHIS.

Subpart—Oriental Fruit Fly

SOURCE: 58 FR 8521, Feb. 16, 1993, unless otherwise noted.

§ 301.93 Restrictions on interstate movement of regulated articles.

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

[58 FR 8521, Feb. 16, 1993, as amended at 66 FR 21053, Apr. 27, 2001]

§ 301.93-1 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 of the United States Department of Agriculture (APHIS or Service).

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

Compliance agreement. A written agreement between the Animal and Plant Health Inspection Service and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart.

Core area. The area within a circle surrounding each detection using a 1/2-

¹Any 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).

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.

Drip area. The area under the canopy of a plant.

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

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 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 a compliance agreement affirms that a specified regulated article is eligible for interstate movement in accordance with § 301.93-5(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 or transported, carried, or allowed to be moved, shipped, transported, or carried by any means.

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

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

Quarantined area. Any State, or any portion of a State, listed in § 301.93-3(c) of this subpart.

Regulated article. Any article listed in § 301.93-2 of this subpart or otherwise designated as a regulated article in accordance with § 301.93-2(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.93-3(b) of this subpart.

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

[58 FR 8521, Feb. 16, 1993; 58 FR 29028, May 18, 1993, as amended at 71 FR 66832, Nov. 17, 2006]

§ 301.93-2 Regulated articles.

The following are regulated articles:

(a) The following fruits, nuts, vegetables, and berries:

Akia (*Wikstromia phylluraefolia*)
 Alexander laurel (*Calophyllum inophyllum*)
 Apple (*Malus sylvestris*)
 Apricot (*Prunus armeniaca*)
 Avocado (*Persea americana*)
 Banana (*Musa paradisiaca* var. *sapientum*)
 (*Musaxparadisiaca*)
 Banana, dwarf (*Musa nana*)
 Barbados cherry (*Malpighia glabra*)
 Bell pepper (*Capsicum annum*)
 Brazil cherry (*Eugenia dombeyi*)
 Breadfruit (*Artocarpus altilis*)
 Cactus (*Cereus coeruleus*)
 Caimitillo (*Chrysophyllum oliviforme*)
 Cashew (*Anacardium occidentale*)
 Cherimoya (*Annona Cherimola*)
 Cherry, Catalina (*Prunus ilicifolia*)
 Cherry, Portuguese (*P. lusitanica*)
 Chile (*Capsicum annum*)
 Coffee, Arabian (*Coffea arabica*)
 Country gooseberry (*Averrhoa carambola*)
 Cucumber (*Cucumis sativas*)
 Custard apple (*Annona reticulata*)
 Date palm (*Phoenix dactylifera*)
 Dragon tree (*Dracena draco*)
 Eggfruit tree (*Pouteria campechiana*)
 Elengi tree (*Mimusops elengi*)
 Fig (*Ficus carica*)
 Gourka (*Garcinia celebica*)
 Granadilla, sweet (*Passiflora ligularis*)
 Grape (*Vitis* spp.)
 Grapefruit (*Citrus paradisi*)
 Guava (*Psidium guajava*), (*P. littorale*), (*P. cattleianum*)
 Imbu (*Spondias tuberosa*)
 Jackfruit (*Artocarpus heterophyllum*)
 Jerusalem cherry (*Solanum pseudocapsicum*)
 Jujube (*Ziziphus* spp.)
 Kitembilla (*Dovyalis hebecarpa*)
 Kumquat (*Fortunella japonica*)
 Laurel (*Calophyllum inophyllum*)
 Lemon (*Citrus limon*)
 Lime, key or Mexican (*Citrus aurantifolia*)
 Lime, Persian (*Citrus latifolia*)
 Lime, sweet (*Citrus limetioides*)
 Longan (*Euphoria longan*)
 Loquat (*Eriobotrya japonica*)
 Lychee nut (*Lychee chinensis*)
 Malay apple (*Eugenia malaccensis*)
 Mammee apple (*Mammea americana*)
 Mandarin orange (*Citrus reticulata*)
 (*tangerine*)
 Mango (*Mangifera indica*)
 Mangosteen (*Garcinia mangostana*)
 Mock orange (*Murraya exotica*)
 Mulberry (*Morus nigra*)
 Myrtle, downy rose (*Rhodomyrtus tomentosa*)
 Natal plum (*Crissa grandiflora*)
 Nectarine (*Prunus persica* var. *nectarina*)
 Oleander, yellow (*Thevetia peruviana*)