

§ 301.97

7 CFR Ch. III (1–1–08 Edition)

Fumigation exposure time	Refrigeration	
	Days	Temperature
3 hours .....	3	6.11–8.33 °C. (43–47 °F.)
	6	9.88–13.33 °C. (48–56 °F.)

(ii) *Refrigeration plus fumigation.* Refrigerate for 21 days at 0.55 °C. (33 °F.) or below, then fumigate at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with—

(A) 48 g/m<sup>3</sup> (3 lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 4.5 °C. (40–59 °F.), minimum gas concentration 44 g/m<sup>3</sup> at ½ hour, 36 g/m<sup>3</sup> at 2 hours; or

(B) 40 g/m<sup>3</sup> (2½ lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 15.5–20.5 °C. (60–69 °F.), minimum gas concentration 36 g/m<sup>3</sup> at ½ hour, 28 g/m<sup>3</sup> at 2 hours; or

(C) 32 g/m<sup>3</sup> (2 lb/1000 ft<sup>3</sup>) methyl bromide for 2 hours at 21–26 °C. (70–79 °F.), minimum gas concentration 30 g/m<sup>3</sup> at ½ hour, 25 g/m<sup>3</sup> at 2 hours.

(3) *Tomato—(i) Fumigation.* Fumigate with methyl bromide at normal atmospheric pressure (chamber or tarpaulin, load not to exceed 80%) with 32g/m<sup>3</sup> (2 lb/1000 ft<sup>3</sup>) for 3½ hours at 21 °C. (70 °F.) or above, minimum gas concentration 26 g/m<sup>3</sup> at ½ hour, 14 g/m<sup>3</sup> at 4 hours.

(ii) *Vapor heat.* Heat by saturated water vapor at 44.4 °C. (112 °F.) until approximate center of tomato reaches 44.4 °C. (112 °F.). Maintain at 44.4 °C. (112 °F.) for 8¾ hours, then immediately cool.

(b) *Premises.* A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with either malathion or spinosad bait spray. 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 completion of egg and larvae development of the Oriental fruit fly. Determination of the time period must be based on the day degrees model for the Oriental 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 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.

(c) *Soil.* Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in §301.93–2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are also acceptable.

[58 FR 8521, Feb. 16, 1993; 58 FR 29028, May 18, 1993; 67 FR 8465, Feb. 25, 2002; 69 FR 56159, Sept. 20, 2004; 70 FR 33268, June 7, 2005]

**Subpart—Melon Fruit Fly**

SOURCE: 65 FR 8636, Feb. 22, 2000, unless otherwise noted.

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

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

[65 FR 8636, Feb. 22, 2000, as amended at 66 FR 21053, Apr. 27, 2001]

**§ 301.97–1 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 melon fruit fly and may be moved interstate to any destination.

<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).

**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.

**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 § 301.97-4(d) of this subpart.

**Dripline.** The line around the canopy of a plant.

**Infestation.** The presence of the melon fruit fly or the existence of circumstances that makes it reasonable to believe that the melon 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 the regulated article identified on the document is eligible for interstate movement in accordance with § 301.97-5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

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

**Moved (move, movement).** Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

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

**Plant Protection and Quarantine.** Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

**Quarantined area.** Any State, or any portion of a State, listed in § 301.97-3(c) of this subpart or otherwise designated

as a quarantined area in accordance with § 301.97-3(b) of this subpart.

**Regulated article.** Any article listed in § 301.97-2 or otherwise designated as a regulated article in accordance with § 301.97-2(e).

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

#### § 301.97-2 Regulated articles.

The following are regulated articles:

- (a) Melon fruit flies.<sup>2</sup>
- (b) The following fruits and vegetables:

Apple (*Malus sylvestris*)  
 Apple, custard (*Annona reticulata*)  
 Avocado (*Persea americana*)  
 Bean, hyacinth (*Dolichos lablab*)  
 Bean, lima (*Phaseolus lunatus* = *Phaseolus limensis*)  
 Bean, mung (*Phaseolus vulgaris*)  
 Cantaloupe (*Cucumis melo* and *Cucumis melo* var. *Cantalupensis*)  
 Cauliflower (*Brassica oleracea* var. *botrytis*)  
 Chayote (*Sechium edule*)  
 Colocynthis (*Citrullus colocynthis*)  
 Cowpea (*Vigna unguiculata*)  
 Cucumber (*Cucumis sativus*)  
 Cucumber, bur (*Sicyes* sp.)  
 Cucurbit (*Cucumis pubescens* and *Cucumis trigonus*)  
 Date palm (*Phoenix dactylifera*)  
 Eggplant (*Solanum melongena*)  
 Fig (*Ficus carica*)  
 Gourds  
   (*Coccinia* spp.)  
   (*Crescentia* spp.)  
   (*Lagenaria* spp.)  
   (*Luffa* spp.)  
   (*Momordica* spp.)  
   (*Trichosanthis* spp.)  
 Grape (*Vitis trifolia*)  
 Guava (*Psidium guajava*)  
 Guava, cattley (*Psidium cattleianum*)  
 Lemon, water (*Passiflora laurifolia*)  
 Mango (*Mangifera indica*)  
 Melon (*Citrullus* spp.)  
 Melon, Chinese (*Benincasa hispida*)  
 Melon, oriental pickling (*Cucumis melo* var. *conomon*)  
 Mustard, leaf (*Brassica juncea*)  
 Okra (*Hibiscus esculentus*)  
 Orange, king (*Citrus nobilis*)  
 Orange, mandarin (*Citrus reticulata*)  
 Orange, sweet (*Citrus sinensis*)  
 Papaya (*Carica papaya*)  
 Passion fruit (*Passiflora edulis*)  
 Peach (*Prunus persica*)

<sup>2</sup>Permit and other requirements for the interstate movement of melon fruit flies are contained in part 330 of this chapter.