

§ 301.99-6

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may issue a limited permit for interstate movement of a regulated article after an inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate or limited permit has not complied with all conditions in this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

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§ 301.99-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, handling, or moving regulated articles may enter into a compliance agreement when an inspector determines that the person is aware of this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.⁷

(b) Any compliance agreement may be canceled, either orally or in writing,

⁷Compliance agreement forms are available without charge from the McAllen Work Station, Federal Building Suite 119, 320 North Main, McAllen, TX 78501-4699, and from local Plant Protection and Quarantine offices, which are listed in telephone directories.

by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Administrator, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

§ 301.99-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.99-5(c)) who desires a certificate or limited permit to move a regulated article interstate must notify an inspector⁸ as far in advance of the desired interstate movement as possible, but no less than 48 hours before the desired interstate movement.

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

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

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate or limited permit is attached to the consignee's copy of the

⁸See footnote 4 to § 301.99-5(a).

waybill, the regulated article must be sufficiently described on the certificate or limited permit and on the waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier or the carrier's representative to the consignee listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

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§ 301.99–9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.99–10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy the sapote fruit fly are authorized for use on regulated articles. The following treatments also may be used for the regulated articles indicated:

(a) *Soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.99–2(a) of this subpart.* Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the dripline with sufficient water to wet the soil to at least a depth of ½ inch.

(b) *Citrus fruits.* Regulated citrus fruits originating inside the quarantined area that are to be moved outside the quarantined area may be treated with methyl bromide fumigation in APHIS-approved chambers. Exposure period for this treatment is 2 hours.⁹ Fruit pulp temperature must be between 21.1 °C and 29.4 °C (70 °F and 85 °F). This temperature requirement refers to fruit pulp only and not to air temperature within the chamber. Fruit taken from a cooling room may have to

be pre-warmed before fumigation is attempted. To determine fruit pulp temperature, stab several fruit to the center with a suitable thermometer that reads at least in whole degrees (F or C). The lowest temperature should be used, not the average. The methyl bromide dosage is set at a rate of 2.5 pounds of 100 percent pure, type "Q" (for quarantine use only) methyl bromide per 1,000 cubic feet of chamber space.¹⁰ However, if, prior to treatment, representative sampling reveals a level of infestation greater than 0.5 percent for the lot, then the fruit is ineligible for treatment.

(c) *Premises.* Fields, groves, or areas that are located within a quarantined area but outside the infested core area and that produce regulated articles may receive regular treatments with either malathion or spinosad bait spray as an alternative to treating the regulated articles with methyl bromide fumigation or those treatments provided in part 305 of this chapter. 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 development of sapote fruit fly egg and larvae. Determination of the time period must be based on the day degrees model for sapote 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 of 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

⁹To enhance equal concentrations of methyl bromide throughout the chamber, a fan should be placed near the point of gas introduction, and allowed to run for at least 15 minutes.

¹⁰Dosage is based upon chamber volume, not the volume of the fruit being treated. Fruit should be in cartons approved for fumigation. Cartons must be placed on pallets. There should be an air space of at least 1 foot between adjacent pallet loads; at least 1 foot between chamber walls and the nearest carton of fruit; and at least 2 feet between the height of the stack and the ceiling of the chamber. The compressed liquid methyl bromide inside the cylinder must be put through a volatilizer prior to injection into the chamber. Water temperature in the volatilizer must never fall below 65.6 °C (150 °F) at any time during gas injection.