

agreement has been made aware of the requirements of the regulations and the person has agreed to comply with the requirements of the regulations and the provisions of the compliance agreement. This section contains a footnote (number 7) that explains where compliance agreement forms may be obtained.

Section 301.99-6 also provides that an inspector may cancel the compliance agreement upon finding that a person who has entered into the agreement has failed to comply with any of the provisions of the regulations. The inspector will notify the holder of the compliance agreement of the reasons for cancellation and offer an opportunity for a hearing to resolve any conflicts of material fact in the event that the person wishes to appeal the cancellation.

Section 301.99-7—Assembly and Inspection of Regulated Articles

Section 301.99-7 provides that 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 regulated articles must request, at least 48 hours before the desired interstate movement, that an inspector issue a certificate or limited permit. The regulated articles must be assembled in a place and manner directed by the inspector.

Section 301.99-8—Attachment and Disposition of Certificates and Limited Permits

Section 301.99-8 requires the certificate or limited permit issued for movement of the regulated article to be attached, during the interstate movement, to the regulated article, or to a container carrying the regulated article, or to the consignee's copy of the accompanying waybill. Further, the section requires that the carrier or the carrier's representative must furnish the certificate or limited permit to the consignee listed on the certificate or limited permit upon arrival at the location provided on the certificate or limited permit.

Section 301.99-9—Costs and Charges

Section 301.99-9 explains the APHIS policy that the services of an inspector that are needed to comply with the regulations are provided without cost between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, to persons requiring those services, but that we will not be responsible for any other costs or charges (such as overtime costs for inspections conducted at times other than between 8 a.m. to 4:30 p.m.,

Monday through Friday, except holidays).

Section 301.99-10—Treatments

Section 301.99-10 lists treatments that qualify soil and regulated articles for interstate movement with a certificate as provided in § 301.99-5.

The introductory text of this section provides that any person moving fruits and vegetables originating inside the quarantined area outside of the quarantined area may treat those fruits and vegetables with an applicable treatment listed in the PPQ Treatment Manual, which is incorporated by reference at 7 CFR 300.1, "Plant Protection and Quarantine Treatment Manual."

Paragraph (a) provides that soil within the dripline of plants that are producing or have produced the fruits and vegetables listed in § 301.99-2(a) of the subpart may be treated with diazinon at the rate of 5 pounds active ingredient per acre with sufficient water to wet the soil to a depth of at least ½ inch. Research by the Department's Agricultural Research Service has determined that this diazinon treatment would destroy the sapote fruit fly in soil.

Paragraph (b) provides that 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 as an alternative to the treatments prescribed in the PPQ Treatment Manual. Exposure period for this treatment is 2 hours. 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. After the treatment cycle is complete, regulated articles will be eligible for interstate movement with a certificate as provided in § 301.99-5 unless, prior to treatment, representative sampling revealed a level of infestation greater than 0.5 percent for the lot.

Paragraph (d) provides that premises that are located within the regulated area but outside the infested core area, and that produce regulated articles, may receive regular treatments with

malathion or spinosad bait spray as an alternative to treating fruits and vegetables with methyl bromide fumigation as described above or with treatments prescribed in the PPQ Treatment Manual. 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 sapote fruit fly. Determination of the time period must be based on the day degrees model for sapote fruit fly. Since the length of fruit fly life cycles vary according to the temperature of their environment, the day degrees model is used to project the duration of the life cycle of the 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. Spinosad bait spray 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 of spinosad, the mixture may be diluted with water to improve coverage. After the treatment cycle is complete, regulated articles produced on the premises will be eligible for interstate movement with a certificate as provided in § 301.99-5.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the sapote fruit fly from spreading to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.