§ 301.32–10 Treatments.

Regulated articles may be treated in accordance with part 305 of this chapter to neutralize fruit flies. 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 regulated articles listed §301.32(a) or (b). The following soil treatments may be used:

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 0.5 inch. Both immersion and pour-on treatment procedures are also acceptable.

(b) 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 fruits and vegetables as 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 fruit fly egg and larvae. Determination of the time period must be based on the day degrees model for the specific 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 acre. For ground applications, the mixture may be diluted with water to improve coverage.


Subpart—Black Stem Rust

Source: 54 FR 32791, Aug. 10, 1989, unless otherwise noted.
such person, in which that 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 under the conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the introduction of rust-susceptible varieties of the genera Berberis, Mahoberberis, and Mahonia into protected areas.

Inspector. Any APHIS employee or other person authorized by the Administrator in accordance with law to enforce this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document issued by an inspector to allow the interstate movement into or through a protected area of regulated articles not eligible for certification under this subpart to a specified destination outside the protected area.

Moved (movement, move). Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved. “Movement” and “move” shall be construed in accordance with this definition.

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

Protected area. Those States or counties designated in §301.38–3(d) of this subpart.

Rust-resistant plants. All plants of the genera Berberis, Mahoberberis, and Mahonia, and their progeny, that have proven resistant to black stem rust during testing by the United States Department of Agriculture, and that are listed as rust-resistant under §301.38–2 (a)(1) and (a)(2).

Rust-susceptible plants. All plants of the genera Berberis, Mahoberberis, and Mahonia not listed as rust-resistant under §301.38–2 (a)(1) and (a)(2).

Regulated article. Any article listed in §301.38–2 (a)(1) through (a)(3) of this subpart or otherwise designated as a regulated article in accordance with §301.38–2(a)(4) of this subpart.

Seedling. Any plant of the genera Berberis, Mahoberberis, and Mahonia grown from seed and having less than 2 years' growth.

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

Two years' growth. The growth of a plant during all growing seasons of 2 successive calendar years.

§301.38–2 Regulated articles.

(a) The following are regulated articles:3

(1) All plants, seeds, fruits, and other plant parts capable of propagation from the following rust-resistant Berberis species and varieties.

- B. aggregata×B. wilsoniae 'Pirate King'
- B. 'Amstelveen'
- B. aridocalida
- B. beaniana
- B. buxifolia
- B. buxifolia nana
- B. calliantha
- B. candidula
- B. candidula 'Amstelveen'
- B. candidula×B. verruculosa 'Amstelveen'

*Testing is performed by the Agricultural Research Service of USDA as follows: In a greenhouse, the suspect plant, or test subject, is placed under a screen with a control plant, i.e., a known rust-susceptible variety of Berberis, Mahoberberis, or Mahonia. Infected wheat stems, a primary host of black stem rust, are placed on top of the screen. The plants are moistened and maintained in 100% humidity, causing the spores to swell and fall on the plants lying under the screen. The plants are then observed for 7 days at 20–80% relative humidity. This test procedure is repeated 12 times. If in all 12 tests, the rust-susceptible plant shows signs of infection after 7 days and the test plants do not, USDA will declare the test plant variety rust-resistant. The tests must be performed on new growth, just as the leaves are unfolding.

*Permit and other requirements for the interstate movement of black stem rust organisms are contained in part 330 of this chapter.