

retain records for 6 months for review by APHIS.

(ii) The drain in the bottom of the sterilizer must be cleaned between each cycle to ensure proper heat circulation.

(4) All reevaluations and adjustments must be observed by APHIS.

(c) *T415-c, grinding and discharge into a sewage system.* The sewage system must be approved by the Administrator upon his/her determination that the system is designed and operated in such a way as to preclude the discharge of sewage effluents onto land surface or into lagoons or other stationary waters and otherwise is adequate to prevent the spread of plant pests and livestock or poultry diseases.

§ 305.41 [Reserved]

Subpart—Miscellaneous Treatments

§ 305.42 **Miscellaneous treatment schedules.**

(a) *T102-b, T102-b-1, T102-b-2, soapy water and wax.* (1) The fruit must be immersed in a soapy water bath of one part soap solution (such as Deterfrut) to 3,000 parts water for 20 seconds.

(2) The soapy bath must be followed with a pressure shower rinse to remove all excess soap.

(3) The fruit must be immersed for 20 seconds in an undiluted wax coating (such as Johnson's Wax Primafresh 31 Kosher fruit coating). The wax coating must cover the entire surface of the fruit.

(b) *T102-c, warm, soapy water and brushing for durian and other large fruits such as breadfruit.* (1) Detergent (such as Deterfrut) must be added to warm water (110-120 °F) at the rate of one part detergent or soap to 3,000 parts water.

(2) The fruit must be immersed for at least 1 minute in the warm detergent water.

(3) The fruit must be scrubbed with a brush with stiff bristles to remove any insects.

(4) The fruit must be rinsed with a pressure shower to rinse the fruit free of residue (detergent and dead insects).

(5) An inspector will inspect each brushed and cleaned fruit. If any in-

sects remain, the fruit must be re-treated or destroyed.

(c) *Three alternative treatments for plant material not tolerant to fumigation.* Treatments are based on the character of the plant material and the type of pests that may be found.

(1) T201-p-1: For plant pests, except scale insects, hand removal of pests or infested parts of plants followed by a detailed inspection to ensure plants are pest free may be employed;

(2) See hand removal plus malathion-carbaryl chemical dip T201-p-2 (§305.10(d)) for alternative treatment; or

(3) T201-p-3: Following the hand removal of the visible plant pests or infested plant parts, the plant material must be treated with hot water at 112 °F for 20 minutes. This treatment is not effective against mature scale insects.

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits, Vegetables, and Flowers

QUARANTINE

Sec.

318.13 Notice of quarantine.

318.13a Administrative instructions providing exemptions from specified requirements.

RULES AND REGULATIONS

318.13-1 Definitions.

318.13-2 Regulated articles.

318.13-3 Conditions of movement.

318.13-4 Conditions governing the issuance of certificates or limited permits.

318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.

318.13-4b Administrative instructions; conditions governing the interstate movement from Hawaii of certain fruits or vegetables for which treatment is required.

318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.

318.13-4d Vapor heat treatment of sweetpotatoes from Hawaii.

318.13e [Reserved]

318.13-4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

§ 318.13

- 318.13-4g Administrative instructions governing movement of avocados from Hawaii to Alaska.
- 318.13-4h [Reserved]
- 318.13-4i Conditions governing the movement of bananas from Hawaii.
- 318.13-4j Administrative instructions governing the interstate movement of cut blooms of gardenia from Hawaii.
- 318.13-5 Application for inspection.
- 318.13-6 Container marking and identity.
- 318.13-7 Products as ships' stores or in the possession of passengers or crew.
- 318.13-8 Articles and persons subject to inspection.
- 318.13-9 Inspection of means of conveyance.
- 318.13-10 Inspection of baggage, other personal effects, and cargo.
- 318.13-11 Disinfection of means of conveyance.
- 318.13-12 Posting of warning notice and distribution of baggage declarations.
- 318.13-13 Movements by the Department of Agriculture.
- 318.13-14 Parcel post inspection.
- 318.13-15 Costs and charges.
- 318.13-16 Withdrawal of certificates, transit permits, limited permits, or compliance agreements.
- 318.13-17 Transit of fruits and vegetables from Hawaii into or through the continental United States.

Subpart—Sweetpotatoes

- 318.30 Notice of quarantine.
- 318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

- 318.47 Notice of quarantine.
- 318.47a Administrative instructions relating to Guam.

RULES AND REGULATIONS

- 318.47-1 Definitions.
- 318.47-2 Articles the movement of which is prohibited or regulated.
- 318.47-3 Conditions governing the issuance of certificates and permits.
- 318.47-4 Shipments by the Department of Agriculture.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

- 318.58 Notice of quarantine.

RULES AND REGULATIONS

- 318.58-1 Definitions.

7 CFR Ch. III (1-1-09 Edition)

- 318.58-2 Regulated articles.
- 318.58-3 Conditions of movement.
- 318.58-4 Issuance of certificates or limited permits.
- 318.58-4a Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.
- 318.58-4b Irradiation treatment of regulated articles from Puerto Rico and the U.S. Virgin Islands.
- 318.58-4c Movement of sweetpotatoes from Puerto Rico to certain ports.
- 318.58-5 Application for inspection.
- 318.58-6 Marking of containers.
- 318.58-7 Products as ships' stores or in the possession of passengers and crew.
- 318.58-8 Articles and persons subject to inspection.
- 318.58-9 Inspection of means of conveyance.
- 318.58-10 Inspection of baggage, other personal effects, and cargo.
- 318.58-11 Disinfection of means of conveyance.
- 318.58-12 Transit of fruits and vegetables from Puerto Rico and the Virgin Islands of the United States into or through the continental United States.
- 318.58-13 Movements by the Department of Agriculture.
- 318.58-14 Parcel post inspection.
- 318.58-15 Costs and charges.
- 318.58-16 Cancellation of certificates, transit permits, or limited permits.

Subpart—Sand, Soil, or Earth, with Plants From Territories and Districts

- 318.60 Notice of quarantine.

Subpart—Guam

QUARANTINE

- 318.82 Notice of quarantine.

REGULATIONS

- 318.82-1 Definitions.
- 318.82-2 Movement of regulated articles.
- 318.82-3 Costs.

AUTHORITY: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 24 FR 10777, Dec. 29, 1959, unless otherwise noted.

Subpart—Hawaiian Fruits, Vegetables, and Flowers

QUARANTINE

§ 318.13 Notice of quarantine.

- (a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714,

and 7754), the State of Hawaii is quarantined to prevent the spread of dangerous plant diseases and pests, including the Mediterranean fruit fly (*Ceratitidis capitata* (Wied.)), the melon fly (*Bactrocera cucurbitae* Coq.), the oriental fruit fly (*Bactrocera dorsalis* Hendl.), green coffee scale (*Coccus viridis* (Green)), the bean pod borer (*Maruca testulalis* (Geyer)), the bean butterfly (*Lampides boeticus* (L.)), the Asiatic rice borer (*Chilo suppressalis*), the mango weevil (*Sternonchetus mangiferae* (F.)), the Chinese rose beetle (*Adoretus sinicus* Burm.), and a cactus borer (*Cactoblastis cactorum* (Berg.)), which are new to or not known to be widely prevalent or distributed within and throughout other States.

(b) No fruits or vegetables, in the raw or unprocessed state; cut flowers; rice straw; mango seeds; or cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Administrator of the Animal and Plant Health Inspection Service shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations: *And provided*,

further, That no restrictions are placed hereby on the movement of cactus plants from Hawaii to St. Croix, Virgin Islands of the United States, or on the movement of coconuts from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States.

(c) This subpart leaves in full force and effect §318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(d) Regulations governing the movement of live plant pests designated in this section are contained in part 330 of this chapter.

[28 FR 13280, Dec. 7, 1963, as amended at 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971; 55 FR 38979, Sept. 24, 1990; 66 FR 21054, Apr. 27, 2001; 71 FR 4461, Jan. 27, 2006]

§ 318.13a Administrative instructions providing exemptions from specified requirements.

(a) The following fruits, vegetables, and other products may be moved from Hawaii into or through Guam without certification or other restriction under this subpart:

- (1) [Reserved]
- (2) Cut flowers, as defined in §318.13-1.
- (3) All fruits and vegetables designated in §318.13-2(b).
- (4) Beets, rutabagas, and turnips; when without tops.
- (b) [Reserved]

[33 FR 14621, Oct. 1, 1968, as amended at 54 FR 3578, Jan. 25, 1989; 55 FR 38979, Sept. 24, 1990]

RULES AND REGULATIONS

§ 318.13-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the Animal and Plant Health Inspection Service to whom authority has been or may be delegated to act in the Administrator's stead.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Cactus plants. Any of various fleshy-stemmed plants of the botanical family Cactaceae.

Certificate. A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

Commercial shipment. Shipment containing fruits and vegetables that an inspector identifies as having been produced for sale or distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower and packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Compliance agreement. Any agreement to comply with stipulated conditions as prescribed under § 318.13(b) or § 318.13-4(b) of this subpart or § 305.34 of this chapter, executed by any person to facilitate the interstate movement of regulated articles under this subpart.

Continental United States. The 48 contiguous States, Alaska, and the District of Columbia.

Cut flowers. Any cut blooms, fresh foliage customarily used in the florist trade, and dried decorative plant material.

Disinfection (disinfect and disinfected). The application to parts or all of a ship, vessel, other surface craft, or aircraft of a treatment that may be designated by the inspector as effective against such plant pests as may be

present. (“Disinfect” and “disinfected” shall be construed accordingly.)

Fruits and vegetables. The more or less succulent portions of food plants, and parts thereof, in raw or unprocessed state, such as bananas, pineapples, potatoes, ginger roots, tomatoes, peppers, melons, citrus, mangoes, etc.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

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

Limited permit. A document issued by an inspector or a person operating under a compliance agreement for the interstate movement of regulated articles to a specified destination for:

(1) Consumption, limited utilization or processing, or treatment; or

(2) Movement into or through the continental United States in conformity with a transit permit.

Mango seeds. Seeds of the fruit of mango (*Mangifera* spp.), fresh or dried.

Means of conveyance. For the purposes of § 318.13-17 of this subpart, “means of conveyance” shall mean a ship, truck, aircraft, or railcar.

Moved (move and movement). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii into or through the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States (or from or into or through other places as specified in this subpart). Local intrastate movement is in no way affected by the regulations in this subpart. (“Move” and “movement” shall be construed accordingly.)

Person. Any individual, corporation, company, society, association, or other organized group.

Plant pests. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or

other pathogen, or any article similar to or allied with any of those articles.

Rice straw. Stems or straw of rice (*Oryza sativa*), when used as packing material or for other purposes.

Sealed (sealable) container. A completely enclosed container designed for the storage and/or transportation of commercial air, sea, rail, or truck cargo, and constructed of metal or fiberglass, or other similarly sturdy and impenetrable material, providing an enclosure accessed through doors that are closed and secured with a lock or seal. Sealed (sealable) containers used for sea shipments are distinct and separable from the means of conveyance carrying them when arriving in and in transit through the continental United States. Sealed (sealable) containers used for air shipments are distinct and separable from the means of conveyance carrying them before any transloading in the continental United States. Sealed (sealable) containers used for air shipments after transloading in the continental United States or for overland shipments in the continental United States may either be distinct and separable from the means of conveyance carrying them, or be the means of conveyance itself.

State. Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, and all other territories and possessions of the United States.

Transit permit. A written authorization issued by the Administrator for the movement of fruits and vegetables en route to a foreign destination that are otherwise prohibited movement by this subpart into or through the continental United States. Transit permits authorize one or more shipments over a designated period of time.

Transloading. The transfer of cargo from one sealable container to another, from one means of conveyance to another, or from a sealable container directly into a means of conveyance.

United States. The States, District of Columbia, Guam, Northern Mariana Is-

lands, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13280, Dec. 7, 1963; 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 45 FR 42242, June 24, 1980; 52 FR 8864, Mar. 20, 1987; 54 FR 391, Jan. 6, 1989; 55 FR 38979, Sept. 24, 1990; 56 FR 59207, Nov. 25, 1991; 58 FR 7958, Feb. 11, 1993; 59 FR 66641, Dec. 28, 1994; 61 FR 5924, Feb. 15, 1996; 62 FR 36974, July 10, 1997; 67 FR 41157, June 17, 2002; 68 FR 5802, Feb. 5, 2003; 71 FR 4461, Jan. 27, 2006]

§ 318.13-2 Regulated articles.

(a)(1) *Prohibited movement.* Fruits, vegetables, and other products specified in § 318.13, and not eligible for inspection and certification under § 318.13-4 or otherwise expressly authorized movement either in the regulations in this subpart or in administrative instructions issued by the Administrator of the Animal and Plant Health Inspection Service are prohibited movement.

(2) Avocados which have been moved to Alaska in accordance with § 318.13-4g are prohibited movement from Alaska into or through other places in the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

(b) *Regulated movement.* The movement of the following articles from Hawaii is allowed throughout the year upon compliance with the regulations in this subpart:

Aechmea bracteata (Sw.) Griseb, fruit-bearing panicles.
 Allium spp. (bulb only).
 Allium tuberosum.
 Arrowhead (*Sagittaria sagittifolia*).
 Arrowroot (*Maranta arundinacea*).
 Artichoke, globe (*Cynara scolymus*).
 Artichoke, Jerusalem (*Helianthus tuberosus*).
 Asparagus (*Asparagus officinalis*).
 Bean sprouts, soy (*Glycine hispida*).
 Bean sprouts, mungo (*Phaseolus aureus*).
 Beets (*Beta vulgaris*).
 Broccoli (*Brassica oleracea* (*Botrytis* group)).
 Brussel sprouts (*Brassica oleracea* (*Gemifera* group)).
 Burdock, great (*Arctium lappa*, *Lappa major*, *L. edulis*).
 Butterbur (*Petasites japonicus*).
 Cabbage (*Brassica oleracea*).
 Cabbage, Chinese (*Brassica pekinensis*, *B. chinensis*).
 Carrot (*Daucus carota sativa*).

§ 318.13-3

Cassava (*Manihot* sp.).
Cauliflower (*Brassica oleracea* [Botrytis group]).
Celery (*Apium graveolens*).
Chinese spinach (*Amaranthus gangeticus*).
Chrysanthemum, garland (*Chrysanthemum coronarium*).
Coriander (*Coriandrum sativum*).
Dandelion (*Taraxacum officinale*).
Dropwort, water (*Oenanthe stolonifera*).
Durian (*Durio zibethinus*)
Foxheads or Nipple fruits (*Solanum mammosum*).
Gardenia (cut blooms).
Ginger bracts (*Zingiber mioga*).
Ginger root (*Zingiber officinale*).
Honewort (*Cryptotaenia canadensis*).
Jesuit's nut (*Trapa bicornis*, *T. natans*).
Kudzu (*Pueraria thunbergiana*).
Lettuce (*Lactuca sativa*)
Lily root (*Nelumbium nucifera*).
Mahogany fruit (*Swietenia mahagoni* (L.) Jacq.).
Mustard greens (*Brassica* spp).
Mugwort (*Artemisia vulgaris*).
Nightshade, Malabar (*Bassella rubra*).
Parsley (*Petroselinum hortense*).
Perilla (*Perilla frutescens*).
Pineapples (*Ananas sativa*), smooth Cayenne.
Pineapple hybrids 53-116, 59-433, D10, and D20 (*Ananas Sativa*).
Potato (*Solanum tuberosum*).
Radish greens (*Raphanus sativus longipinnatus*).
Radish, oriental (*Raphanus sativus longipinnatus*).
Rhubarb (*Rheum rhaponticum*).
Sausage fruit (*Kigelia pinnata* (Jacq.)).
Spinach (*Spinacia oleracea*).
Sweetpotato (*Ipomoea batatas* Poir.).
Sweet corn (*Zea mays*).
Taro root, shoots and stalks (*Colocasia antiquorum esculentum*).
Turnips (*Brassica rapa*).
Watercress (*Nasturtium officinale*).
Waternut (waterchestnut) (*Eleocharis dulcis* (*E. tuberosa*) (*Scirpus tuberosus*)).
Wood rose (*Ipomoea tuberosa* L.).
Yam bean root (*Pachyrhizus erosus*).
Yams *Dioscorea* (spp.).

Provided, That additions of other fruits, vegetables, or other products may be made to the foregoing list of regulated articles by the Administrator of the Animal and Plant Health Inspection Service when he determines that such articles, either as ordinarily packed and shipped or after treatment, do not involve risk of spreading any of the plant pests designated in the foregoing quarantine, and when such findings have been made known in administrative instructions of the Deputy Admin-

7 CFR Ch. III (1-1-09 Edition)

istrator of the Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 27 FR 8345, Aug. 22, 1962; 27 FR 8907, Sept. 7, 1962; 30 FR 5619, Apr. 21, 1965; 33 FR 14621, Oct. 1, 1968; 34 FR 4879, Mar. 6, 1969; 36 FR 24917, Dec. 24, 1971; 44 FR 10701, Feb. 23, 1979; 45 FR 42242, June 24, 1980; 52 FR 8864, Mar. 20, 1987; 55 FR 38979, Sept. 24, 1990; 59 FR 66641, Dec. 28, 1994; 63 FR 65648, Nov. 30, 1998; 67 FR 41157, June 17, 2002; 68 FR 5802, Feb. 5, 2003; 71 FR 4462, Jan. 27, 2006]

§ 318.13-3 Conditions of movement.

(a) *To any destination.* Any regulated articles may be moved interstate from Hawaii in accordance with this subpart to any destination if:

(1) The movement is authorized by a valid certificate issued in accordance with § 318.13-4 (a) or (b) and the movement complies with the conditions of any applicable compliance agreement made under § 318.13-4(d), or

(2) The movement is exempted from certificates or limited permit requirements by administrative instructions in this subpart.

(b)(1) *To restricted destinations.* Smooth Cayenne pineapples; fresh fruit cocktail; inflight baskets of fruit; and cut flowers as defined in § 318.13-1 (except cut blooms of mauna loa and jade vine, and leis thereof, and except any cut blooms of gardenia not grown in accordance with § 318.13-4j) may be moved interstate from Hawaii under limited permit, to a destination specified in the permit, directly from an establishment operated in accordance with the terms of a compliance agreement executed by the operator of the establishment, if the articles have not been exposed to infestation and they are not accompanied by any articles prohibited interstate movement under this subpart.

(2) Avocados may be moved interstate from Hawaii to Alaska if the provisions of § 318.13-4g are met, and if they are accompanied by a limited permit issued by an APHIS inspector in accordance with § 318.13-4(c).

(3) Untreated regulated articles from Hawaii may be moved interstate for irradiation treatment on the mainland United States if the provisions of § 305.34 of this chapter are met and if the articles are accompanied by a limited permit issued by an inspector in

accordance with §318.13-4(c). Untreated bananas from Hawaii may be moved interstate for irradiation treatment on the mainland United States if the provisions of §318.13-4i(b) are met and if the bananas are accompanied by a limited permit issued by an inspector in accordance with §318.13-4(c). The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this subpart.

(4) Untreated sweetpotatoes from Hawaii may be moved interstate for vapor heat treatment on the mainland United States if the provisions of §318.13-4d are met and if the sweetpotatoes are accompanied by a limited permit issued by an inspector in accordance with §318.13-4(c). The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this subpart.

(d) *Segregation of certified articles.* Articles certified after treatment in accordance with §318.13-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Hawaii must be segregated and protected in a manner as required by the inspector.

(e) *Attachment of certificates and limited permits.* Except as otherwise provided for certain air cargo and containerized cargo on ships moved in accordance with §318.13-10, each box, bale, crate, or other container of regulated articles moved under certificate or limited permit shall have the certificate or limited permit attached to the outside of the container: *Provided*, That if a certificate or limited permit is issued for a shipment of more than one container of for bulk products, the certificate or limited permit shall be attached to or stamped on the accompanying waybill, manifest, or bill of lading.

[33 FR 14621, Oct. 1, 1968, as amended at 52 FR 8864, Mar. 20, 1987; 54 FR 3578, Jan. 25, 1989; 55 FR 38979, Sept. 24, 1990; 58 FR 7959, Feb. 11, 1993; 59 FR 66641, Dec. 28, 1994; 62 FR 36974, July 10, 1997; 68 FR 5802, Feb. 5, 2003; 71 FR 4462, Jan. 27, 2006]

§318.13-4 Conditions governing the issuance of certificates or limited permits.

Certificates or limited permits may be issued for the movement of articles allowed movement in accordance with the regulations in this subpart under the following conditions:

(a) *Certification on basis of inspection or nature of lot involved.* Regulated articles designated in §318.13-2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation and infection, or without such inspection when the inspector determines that the lot for shipment is of such a nature that no danger of infestation or infection is involved.

(b) *Certification on basis of treatment.* Fruits, vegetables, and other products designated in §318.13, which are not listed in §318.13-2(b) and for which treatments may be approved by the Administrator of the Animal and Plant Health Inspection Service, may be certified if such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure and if the articles were handled after such treatment in accordance with conditions prescribed in a compliance agreement executed by the applicant for the certificate or were handled after such treatment under such supervision of an inspector as the inspector may require. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.

(c) *Limited permits.* (1) Limited permits may be issued by an inspector for the movement of noncertified regulated articles designated in §318.13-3(b) of this subpart.

(2) Limited permits may be issued by an inspector for the movement of fruits, vegetables, or other products otherwise prohibited movement under this subpart, if the articles are to be moved in accordance with §318.13-17 of this subpart.

(3) Except when the regulations specify an inspector must issue the

§ 318.13-4a

7 CFR Ch. III (1-1-09 Edition)

limited permit, limited permits may be issued by a person operating under a compliance agreement.

(d) *Compliance agreements.* As a condition of issuance of a limited permit under paragraph (c)(3) of this section, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance agreement is required, the person applying for the permit or certificate must sign a compliance agreement stipulating that he will use all such permits or certificates issued to him in accordance with the provisions thereof and of the compliance agreement; will maintain at his establishment such safeguards against the establishment and spread of infestation and infection and comply with such conditions as to the maintenance of identity, handling (including post treatment handling), and interstate movement of regulated articles under such permits or certificates and the cleaning and treatment of means of conveyance and containers used in such movement of the articles, as may be required by the inspector in each specific case to prevent the spread of infestation or infection; and will allow inspectors to inspect the establishment and operations thereof.

(Approved by the Office of Management and Budget under control number 0579-0088)

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971; 52 FR 8864, Mar. 20, 1987; 55 FR 38979, Sept. 24, 1990; 57 FR 31307, July 15, 1992; 58 FR 7959, Feb. 11, 1993; 59 FR 48992, Sept. 26, 1994; 59 FR 66641, Dec. 28, 1994; 68 FR 5802, Feb. 5, 2003]

§ 318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.

(a) The Administrator of the Animal and Plant Health Inspection Service, pursuant to the authority contained in §§ 318.13-2(b) and 318.13-4(b), approves the process of quick freezing in accordance with part 305 of this chapter as a treatment for all fruits and vegetables described in § 318.13, except as otherwise provided in paragraph (c) of this section. Such frozen fruits and vegetables may be certified for movement from Hawaii into or through any other

Territory, State, or District of the United States.¹

(b) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii.

(c) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Administrator of the Animal and Plant Health Inspection Service, be destroyed by freezing.

[24 FR 10777, Dec. 29, 1959, as amended at 55 FR 38979, Sept. 24, 1990; 70 FR 33323, June 7, 2005]

§ 318.13-4b Administrative instructions; conditions governing the interstate movement from Hawaii of certain fruits or vegetables for which treatment is required.

(a) *General restrictions.* Fruits or vegetables listed in this section may only be moved interstate from Hawaii in accordance with this section or in accordance with other applicable sections in this subpart.

(b) *Eligible fruits or vegetables.* The following fruits or vegetables may be moved interstate from Hawaii if, prior to interstate movement, they are inspected for plant pests by an inspector and are then treated for plant pests under the supervision of an inspector with a treatment prescribed in part 305 of this chapter: Avocados, Capsicum spp. (peppers), carambolas, Cucurbita spp. (squash), eggplants, litchi, longan, papayas, pineapples (other than smooth cayenne), rambutan, sweetpotatoes, and tomatoes.

(c) *Subsequent handling.* All handling of fruits or vegetables subsequent to treatment in Hawaii must be carried out under the supervision of an inspector and according to the inspector's instructions.

(d) *Destination restrictions.* Litchi and longan that are moved interstate from

¹Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Protection and Quarantine Programs, P.O. Box 9067, Honolulu, HI 96820.

Hawaii under this section may not be moved into Florida due to the litchi rust mite (*Eriophyes litchi*). Cartons used to carry such fruits must be stamped: "Not for movement into or distribution in FL."

(e) *Costs and charges.* All costs of treatment and any post-treatment safeguards prescribed by an inspector must be borne by the owner of the fruits or vegetables or the owner's representative. The services of an inspector during regularly assigned hours of duty and at the usual place of duty are furnished by APHIS without charge.

(f) *Department not responsible for damages.* Treatments prescribed in part 305 of this chapter are judged from experimental tests to be safe for use with the fruits or vegetables listed in paragraph (b) of this section. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required by an inspector.

[67 FR 41157, June 17, 2002, as amended at 70 FR 33323, June 7, 2005; 71 FR 4462, Jan. 27, 2006; 72 FR 8089, Feb. 23, 2007]

§ 318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.

The Administrator of the Animal and Plant Health Inspection Service hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for tomatoes from Hawaii. Tomatoes treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Animal and Plant Health Inspection Service. The dosage shall be applied at the rate of 2 pounds per 1,000 cubic feet for 3½ hours at 70 °F. or above.

(2) Tomatoes to be fumigated may be individually wrapped in gas-permeable tissue paper and packed in standard slatted tomato lugs or containers similarly vented. The fumigation chamber

shall not be loaded to more than two-thirds of its capacity. The 3½-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Good circulation above and below the load, and between individual containers, shall be provided as soon as the tomatoes are loaded in the chamber and shall continue during the full period of fumigation and until the tomatoes have been removed to a well-ventilated location.

(b) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the tomatoes so treated must be under the supervision of a plant quarantine inspector of the Animal and Plant Health Inspection Service. Such treated tomatoes must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of tomatoes for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.

(c) *Costs.* All costs of the treatments and prescribed posttreatment safeguards provided for in this section, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13-4(b), be borne by the owner of the tomatoes, or his representative.

(d) *Department not responsible for damage.* (1) This treatment is recognized as one which may be marginal as to varietal tolerance of tomatoes and the owner or shipper is warned of possible injury. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised.

(2) In test fumigations the following varieties of tomatoes indicated tolerance to the prescribed treatment when harvested early in the season and in the mature stage after some color development: Big Boy, Bounty, Break O Day, Burpee Hybrid, Earliana, Hawaii, Homestead, J. Moran, Kalohi, Kaulaii, Lanai, Marglobe, Maui, Niihau, N-46, Oahu, Pearson, Pritchard, Rutgers, San Malzano, Step 274, Step 278, Step 280,

§ 318.13-4d

7 CFR Ch. III (1-1-09 Edition)

Step 281, Step 305, and Step 314. Varieties showing poor tolerance were Desert Pride, Kolea C. Manalucie, and Pennheart.

[27 FR 1551, Feb. 20, 1962, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985, and further amended at 55 FR 38979, Sept. 24, 1990]

§ 318.13-4d Vapor heat treatment of sweetpotatoes from Hawaii.

(a) Vapor heat treatment, carried out in accordance with the provisions of this section, is approved as a treatment for sweetpotato from Hawaii.

(b) Sweetpotatoes may be moved interstate from Hawaii in accordance with this section only if the following conditions are met:²

(1) The sweetpotatoes must be treated in accordance with the vapor heat treatment schedule specified in § 305.24.

(2) The sweetpotatoes must be sampled, cut, and inspected and found to be free of the ginger weevil (*Elytrotreinus subtruncatus*). Sampling, cutting, and inspection must be performed under conditions that will prevent any pests that may emerge from the sampled sweetpotatoes from infesting any other sweetpotatoes intended for interstate movement in accordance with this section.

(3) The sweetpotatoes must be inspected and found to be free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*) and the Kona coffee-root knot nematode (*Meloidogyne konaensis*).

(4)(i) Sweetpotatoes that are treated in Hawaii must be packaged in the following manner:

(A) The cartons must have no openings that will allow the entry of fruit flies and must be sealed with seals that will visually indicate if the cartons have been opened. They may be constructed of any material that prevents the entry of fruit flies and prevents oviposition by fruit flies into the fruit in the carton.³

²Sweetpotatoes may also be moved interstate from Hawaii in accordance with § 305.34 of this chapter or after fumigation with methyl bromide according to treatment schedule T-101-b-3-1, as provided for in § 305.6(a) of this chapter.

³If there is a question as to the adequacy of a carton, send a request for approval of the carton, together with a sample carton, to

(B) The pallet-load of cartons must be wrapped before it leaves the treatment facility in one of the following ways:

(1) With polyethylene sheet wrap;

(2) With net wrapping; or

(3) With strapping so that each carton on an outside row of the pallet load is constrained by a metal or plastic strap.

(C) Packaging must be labeled with treatment lot numbers, packing and treatment facility identification and location, and dates of packing and treatment.

(ii) Cartons of untreated sweetpotatoes that are moving to the mainland United States for treatment must be shipped in shipping containers sealed prior to interstate movement with seals that will visually indicate if the shipping containers have been opened.

(5)(i) *Certification on basis of treatment.* A certificate shall be issued by an inspector for the movement of sweetpotatoes from Hawaii that have been treated and handled in Hawaii in accordance with this section. To be certified for interstate movement under this section, sweetpotato from Hawaii must be sampled, cut, and inspected by an inspector and found by an inspector to be free of the ginger weevil (*Elytrotreinus subtruncatus*) and inspected and found by an inspector to be free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*), and the Kona coffee-root knot nematode (*Meloidogyne konaensis*) before undergoing vapor heat treatment in Hawaii.

(ii) *Limited permit.* A limited permit shall be issued by an inspector for the interstate movement of untreated sweetpotato from Hawaii for treatment on the mainland United States in accordance with this section. To be eligible for a limited permit under this section, untreated sweetpotato from Hawaii must be sampled, cut, and inspected in Hawaii by an inspector and found by an inspector to be free of the ginger weevil (*Elytrotreinus subtruncatus*) and inspected and found

the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Center for Plant Health Science and Technology, 1730 Varsity Drive, Suite 400, Raleigh, NC 27606.

by an inspector to be free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*), and the Kona coffee-root knot nematode (*Meloidogyne konaensis*).

(Approved by the Office of Management and Budget under control number 0579-0281)

[71 FR 4462, Jan. 27, 2006]

§ 318.13-4e [Reserved]

§ 318.13-4f Irradiation treatment of certain regulated articles from Hawaii.

Irradiation, carried out in accordance with the provisions in § 305.34 of this chapter, is approved as a treatment for the following fruits and vegetables: Abiu, atemoya, breadfruit, Capsicum spp. (peppers), carambola, cowpea pods, Cucurbita spp. (squash), dragon fruit, eggplant, jackfruit, litchi, longan, mango, mangosteen, melon, moringa pods, papaya, pineapple, rambutan, sapodilla, sweetpotato, and tomato. Any other commodities that are required by this subpart to be treated or subjected to inspection to control one or more of the plant pests listed in § 305.31(a) of this chapter may instead be treated with irradiation. Commodities treated with irradiation for plant pests listed in § 305.31(a) must be irradiated at the doses listed in § 305.31(a), and the irradiation treatment must be conducted in accordance with the other requirements of § 305.34.

[71 FR 4462, Jan. 27, 2006, as amended at 72 FR 8089, Feb. 23, 2007; 73 FR 24856, May 6, 2008]

§ 318.13-4g Administrative instructions governing movement of avocados from Hawaii to Alaska.

Avocados may be moved interstate from Hawaii to Alaska without being certified in accordance with § 318.13-4 (a) or (b) only under the following conditions:

(a) *Distribution and marking requirements.* The avocados may be moved interstate for distribution in Alaska only, the boxes of avocados must be clearly marked with the statement "Distribution limited to the State of Alaska", and the shipment must be identified in accordance with the requirements of § 318.13-6.

(b) *Commercial shipments.* The avocados may be moved in commercial shipments only.

(c) *Packing requirements.* The avocados must have been sealed in the packing house in Hawaii in boxes with a seal that will break if the box is opened.

(d) *Ports.* The avocados may enter the continental United States only at the following ports: Portland, Oregon; Seattle, Washington; or any port in Alaska.

(e) *Shipping requirements.* The avocados must be moved either by air or ship and in a sealed container. The avocados may not be commingled in the same sealed container with articles that are intended for entry and distribution in any part of the United States other than Alaska. If the avocados arrive at either Portland, Oregon or Seattle, Washington, they may be transloaded only under the following conditions:

(1) *Shipments by sea.* The avocados may be transloaded from one ship to another ship at the port of arrival, provided they remain in the original sealed container and that APHIS inspectors supervise the transloading. If the avocados are stored before reloading, they must be kept in the original sealed container and must be in an area that is either locked or guarded at all times the avocados are present.

(2) *Shipments by air.* The avocados may be transloaded from one aircraft to another aircraft at the port of arrival, provided the following conditions are met:

(i) The transloading is done into sealable containers;

(ii) The transloading is carried out within the secure area of the airport—i.e., that area of the airport that is open only to personnel authorized by the airport security authorities;

(iii) The area used for any storage of the shipment is within the secure area of the airport, and is either locked or guarded at all times the avocados are present. The avocados must be kept in a sealed container while stored in the continental United States en route to Alaska; and

(iv) APHIS inspectors supervise the transloading.

(3) *Exceptions.* No transloading other than that described in paragraphs (e)

§ 318.13-4h

7 CFR Ch. III (1-1-09 Edition)

(1) and (2) of this section is allowed except under extenuating circumstances (such as equipment breakdown) and when authorized and supervised by an APHIS inspector.

(f) *Limited permit.* Shipments of avocados must be accompanied by a limited permit issued by an APHIS inspector in accordance with § 318.13-4(c) of this subpart. The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this section.

[59 FR 66642, Dec. 28, 1994]

§ 318.13-4h [Reserved]

§ 318.13-4i Conditions governing the movement of bananas from Hawaii.

(a) Green bananas (*Musa* spp.) of the cultivars "Williams," "Valery," "Grand Nain," and standard and dwarf "Brazilian" may be moved interstate from Hawaii with a certificate issued in accordance with §§ 318.13-3 and 318.13-4 of this subpart if the bananas meet the following conditions:

(1) The bananas must be picked while green and packed for shipment within 24 hours after harvest. If the green bananas will be stored overnight during that 24-hour period, they must be stored in a facility that prevents access by fruit flies;

(2) No bananas from bunches containing prematurely ripe fingers (i.e., individual yellow bananas in a cluster of otherwise green bananas) may be harvested or packed for shipment;

(3) The bananas must be inspected by an inspector and found free of plant pests as well as any of the following defects: prematurely ripe fingers, fused fingers, or exposed flesh (not including fresh cuts made during the packing process); and

(4) The bananas must be safeguarded from fruit fly infestation from the time that they are packaged for shipment until they reach the port of arrival on the mainland United States.

(b) Bananas of any cultivar or ripeness that do not meet the conditions of paragraph (a) of this section may also be moved interstate from Hawaii in accordance with the following conditions:

(1) The bananas are irradiated at the minimum dose listed in § 305.31(a) of this chapter and in accordance with the other requirements in § 305.34 of this chapter for the Mediterranean fruit fly (*Ceratitis capitata*), the melon fruit fly (*Bactrocera curcurbitae*), the Oriental fruit fly (*Bactrocera dorsalis*), and the green scale (*Coccus viridis*) and are inspected, after removal from the stalk, in Hawaii and found to be free of the banana moth (*Opogona sacchari* (Bojen)) by an inspector before or after undergoing irradiation treatment; or

(2) The bananas are irradiated at the minimum dose listed in § 305.31(a) of this chapter and in accordance with the other requirements in § 305.34 of this chapter for the Mediterranean fruit fly (*Ceratitis capitata*), the melon fruit fly (*Bactrocera curcurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*) and are inspected, after removal from the stalk, in Hawaii and found to be free of the green scale (*Coccus viridis*) and the banana moth (*Opogona sacchari* (Bojen)) before or after undergoing irradiation treatment.

(3)(i) A certificate shall be issued by an inspector for the movement of bananas from Hawaii that have been treated and inspected in Hawaii in accordance with this paragraph § 318.13-4i(b). To be certified for interstate movement under this paragraph, bananas from Hawaii must be treated, inspected, and, if necessary, culled in accordance with the requirements of this paragraph prior to interstate movement from Hawaii.

(ii) A limited permit shall be issued by an inspector for the interstate movement of untreated bananas from Hawaii for treatment on the mainland United States in accordance with this section. To be eligible for a limited permit under this paragraph § 318.13-4i(b), bananas from Hawaii must be inspected in accordance with the requirements of this paragraph prior to interstate movement from Hawaii.

[63 FR 65648, Nov. 30, 1998, as amended at 71 FR 4463, Jan. 27, 2006]

§ 318.13-4j Administrative instructions governing the interstate movement of cut blooms of gardenia from Hawaii.

Cut blooms of gardenia may be moved interstate from Hawaii if grown and inspected in accordance with the provisions of this section.

(a) The grower's production area must be inspected annually by an inspector and found free of green scale. If green scale is found during an inspection, a 2-month ban will be placed on the interstate movement of cut blooms of gardenia from that production area. Near the end of the 2 months, an inspector will reinspect the grower's production area to determine whether green scale is present. If reinspection determines that the production area is free of green scale, shipping may resume. If reinspection determines that green scale is still present in the production area, another 2-month ban on shipping will be placed on the interstate movement of gardenia from that production area. Each ban will be followed by reinspection in the manner specified, and the production area must be found free of green scale prior to interstate movement.

(b) The grower must establish a buffer area surrounding gardenia production areas. The buffer area must extend 20 feet from the edge of the production area. Within the buffer area, the growing of gardenias and the following green scale host plants is prohibited: Ixora, ginger (*Alpinia purpurata*), plumeria, coffee, rambutan, litchi, guava, citrus, anthurium, avocado, banana, cocoa, macadamia, celery, *Pluchea indica* (a weed introduced into Hawaii), mango, orchids, and annona.

(c) An inspector must visually inspect the cut blooms of gardenias in each shipment prior to interstate movement from Hawaii to the mainland United States. If the inspector does not detect green scale in the shipment, the inspector would issue a certificate for the shipment in accordance with § 318.13-4(a). If the inspector finds green scale in a shipment, that ship-

ment will be ineligible for interstate movement from Hawaii.

(Approved by the Office of Management and Budget under control number 0579-0197)

[68 FR 5802, Feb. 5, 2003, as amended at 68 FR 11967, March 13, 2003]

§ 318.13-5 Application for inspection.

Persons intending to move any articles that may be certified in accordance with the provisions of § 318.13-4 shall make application for inspection or treatment on forms provided for this purpose as far as possible in advance of the contemplated date of shipment. They will also be required to prepare, handle, and safeguard such articles from infestation or reinfestation, and to assemble them at such points as the inspector may designate, placing them so that inspection may be readily made. Blank forms⁴ for use in making applications for inspections will be furnished free upon request to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Honolulu, Hawaii.

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971; 53 FR 12910, Apr. 20, 1988; 54 FR 391, Jan. 6, 1989; 55 FR 38979, Sept. 24, 1990; 71 FR 4463, Jan. 27, 2006]

§ 318.13-6 Container marking and identity.

Except as provided in § 318.13-17(c) of this subpart, shipments of regulated articles moved in accordance with this subpart must have the following information clearly marked on each container, or, for shipments of multiple containers or bulk products, on the waybill, manifest, or bill of lading accompanying the articles: Nature and quantity of contents; name and address of shipper, owner, or person shipping or forwarding the articles; name and address of consignee; shipper's identifying mark and number; and, the number of the certificate or limited permit authorizing movement, if one was issued.

(Approved by the Office of Management and Budget under control number 0579-0088)

[58 FR 7959, Feb. 11, 1993, as amended at 59 FR 67133, Dec. 29, 1994]

⁴Form PQ-170.

§ 318.13-7

7 CFR Ch. III (1-1-09 Edition)

§ 318.13-7 Products as ships' stores or in the possession of passengers or crew.

(a) *In the possession of passengers or crew members.* Small quantities of fruits, vegetables, and cut flowers, subject to the quarantine and regulations in this subpart, when loose and free of packing materials, may be taken aboard any aircraft moving to Guam, ship, vessel, or other surface craft by passengers or members of the crew without inspection and certification in Hawaii. However, if such articles so taken aboard, are not eligible for inspection and certification under § 318.13-4(a), they must be entirely consumed or disposed of before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States.

(b) *As ship's stores or decorations.* Fruits, vegetables, and cut flowers subject to the quarantine and regulations in this subpart may be taken aboard an aircraft moving from Hawaii to Guam, or a ship, vessel, or other surface craft in Hawaii without inspection or certification. Fruits, vegetables, and cut flowers that are so taken aboard such a carrier must be either (1) entirely consumed or removed from the aircraft moving from Hawaii to Guam, or the ship, vessel, or other surface craft before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States; or (2) in the case of a surface carrier, retained aboard such carrier under seal or otherwise disposed of subject to safeguards equivalent to those imposed on other prohibited or restricted products by § 352.10 (b) and (c) of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 31 FR 999, Jan. 26, 1966; 54 FR 3578, Jan. 25, 1989]

§ 318.13-8 Articles and persons subject to inspection.

Persons, means of conveyance (including ships, other ocean-going craft, and aircraft), baggage, cargo, and any other articles, that are destined for movement, are moving, or have been moved from Hawaii to the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States are subject to agricultural inspection

at the port of departure, the port of arrival, and/or any other authorized port. If an inspector finds any article prohibited movement by the quarantine and regulations of this subpart, he or she, taking the least drastic action, shall order the return of the article to the place of origin, or the exportation of the article, under safeguards satisfactory to him or her, or otherwise dispose of it, in whole or part, to comply with the quarantine and regulations of this subpart.

[54 FR 3578, Jan. 25, 1989, as amended at 58 FR 7959, Feb. 11, 1993]

§ 318.13-9 Inspection of means of conveyance.

(a) *Inspection of aircraft prior to departure.* No person shall move any aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, unless the person moving the aircraft has contacted an inspector and offered the inspector the opportunity to inspect the aircraft prior to departure and the inspector has informed the person proposing to move the aircraft that the aircraft may depart.

(b) *Inspection of aircraft moving to Guam.* Any person who has moved an aircraft from Hawaii to Guam shall contact an inspector and offer the inspector the opportunity to inspect the aircraft upon the aircraft's arrival in Guam, unless the aircraft has been inspected and cleared in Hawaii prior to departure in accordance with arrangements made between the operator of the aircraft, the Animal and Plant Health Inspection Service, and the government of Guam.

(c) *Inspection of ships upon arrival.* Any person who has moved a ship or other ocean-going craft from Hawaii to the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall contact an inspector and offer the inspector the opportunity to inspect the ship or other ocean-going craft upon its arrival.

[54 FR 3578, Jan. 25, 1989]

§ 318.13-10 Inspection of baggage, other personal effects, and cargo.

(a) *Offer for inspection by aircraft passengers.* Passengers destined for movement by aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States shall offer their carry-on baggage and other personal effects for inspection at the place marked for agricultural inspections, which will be located at the airport security checkpoint or the aircraft boarding gate, at the time they pass through the checkpoint or the gate. Passengers shall offer their check-in baggage for inspection at agricultural inspection stations prior to submitting their baggage to the check-in baggage facility. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to such baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Passengers shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a passenger's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The passenger shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the passenger, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(b) *Offer for inspection by aircraft crew.* Aircraft crew members destined for movement by aircraft from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, shall offer their baggage and personal effects for inspection at the inspection station designated for the employing airline not less than 20 minutes prior to the scheduled departure time of the aircraft or the rescheduled departure time as posted in the public areas of the airport. When an inspector has inspected and passed

such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Aircraft crew members shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a crew member's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The crew member shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the crew member, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(c) *Baggage inspection for persons traveling to Guam on aircraft.* No person who has moved from Hawaii to Guam on an aircraft shall remove or attempt to remove any baggage or other personal effects from the area secured for customs inspections before the person has offered to an inspector, and has had passed by the inspector, his or her baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(d) *Baggage acceptance and loading on aircraft.* No person shall accept or load any check-in aircraft baggage destined for movement from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States,

§318.13-11

7 CFR Ch. III (1-1-09 Edition)

unless a certificate is attached to the baggage, or the baggage bears a USDA stamp, inspection sticker, or other indication applied by an inspector representing that the baggage has been inspected and passed.

(e) *Offer for inspection by persons moving by ship.* No person who has moved on any ship or other ocean-going craft from Hawaii to the continental United States, Puerto Rico, Guam, or the Virgin Islands of the United States, shall remove or attempt to remove any baggage or other personal effects from the designated inspection area as provided in §318.13-10(h) on or off the ship or other ocean-going craft unless the person has offered to an inspector for inspection, and has had passed by the inspector, the baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(f) *Loading of certain cargoes.* (1) Except as otherwise provided in paragraph (f)(2) of this section, no person shall present to any common carrier or contract carrier for movement, and no common carrier or contract carrier shall load, any cargo containing fruits, vegetables, or other articles regulated under this subpart that are destined for movement from Hawaii to the continental United States, Puerto Rico, or the Virgin Islands of the United States, unless the cargo has been offered for inspection, passed by an inspector, and bears a USDA stamp or USDA inspection sticker, or unless a certificate or limited permit is attached to the cargo as specified in §318.13-3(e).

(2) Cargo designated in paragraph (f)(1) of this section may be loaded without a USDA stamp or USDA in-

spection sticker, and without a certificate attached to the cargo or a limited permit attached to the cargo if the cargo is moved:

(i) As containerized cargo on ships or other ocean-going craft or as air cargo;

(ii) The carrier has on file documentary evidence that a valid certificate or limited permit was issued for the movement; and

(iii) A notation of the existence of these documents is made by the carrier on the waybill, manifest, or bill of lading that accompanies the shipment.

(3) Cargo moved in accordance with §318.13-17 of this subpart that does not have a limited permit attached to the cargo must have a limited permit attached to the waybill, manifest, or bill of lading accompanying the shipment.

(g) *Removal of certain cargoes in Guam.* No person shall remove or attempt to remove from a designated inspection area as provided in §318.13-10(h), on or off the means of conveyance, any cargo moved from Hawaii to Guam containing fruits, vegetables, or other articles regulated under this subpart, unless the cargo has been inspected and passed by an inspector in Guam.

(h) *Space and facilities for baggage inspection.* Baggage inspection will not be performed until the person in charge or possession of the ship, other ocean-going craft, or aircraft provides space and facilities on the means of conveyance, pier, or airport that are adequate, in the inspector's judgment, for the performance of inspection.

[54 FR 3579, Jan. 25, 1989, as amended at 58 FR 7959, Feb. 11, 1993]

§318.13-11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains plant pests, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo in accordance with an approved method contained in part 305 of this chapter under the supervision of an inspector

Animal and Plant Health Inspection Service, USDA

§ 318.13–15

and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo.

[67 FR 8465, Feb. 25, 2002, as amended at 70 FR 33324, June 7, 2005]

§ 318.13–12 Posting of warning notice and distribution of baggage declarations.

(a) Before any aircraft moving to Guam from Hawaii, or any ship, vessel, or other surface craft from Hawaii arrives within the boundaries of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, the master, or other responsible officer thereof, shall cause to be distributed to each adult passenger thereon a baggage declaration⁵ to be furnished by the U.S. Department of Agriculture, calling attention to the provisions of the Plant Protection Act, and the quarantine and regulations in this subpart. These baggage declarations shall be executed and signed by the passengers and shall be collected and delivered by the master or other responsible officer of the ship, vessel, other surface craft, or aircraft, to the inspector on arrival at the quarantine or inspection area.

(b) Every person owning or controlling any dock, harbor, or landing field in Hawaii from which ships, vessels, other surface craft, or aircraft leave for ports in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall post, and keep posted at all times, in one or more conspicuous places in passenger waiting rooms on or in said dock, harbor, or landing field a warning notice directing attention to the quarantine and regulations in this subpart.⁶ Every master, or other responsible officer of any ship, vessel, other surface craft, or aircraft leaving Hawaii destined to a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall similarly post, and keep posted at all times, such a warning notice in the

ship, vessel, other surface craft, or aircraft under his charge.

[24 FR 10777, Dec. 29, 1959, as amended at 53 FR 12910, Apr. 20, 1988; 54 FR 391, Jan. 6, 1989. Redesignated and amended at 54 FR 3580, Jan. 25, 1989; 66 FR 21054, Apr. 27, 2001; 71 FR 4463, Jan. 27, 2006]

§ 318.13–13 Movements by the Department of Agriculture.

Notwithstanding any other restrictions of this subpart, articles subject to the requirements of the regulations in this subpart may be moved if they are moved:

(a) By the United States Department of Agriculture for experimental or scientific purposes;

(b) Pursuant to a Departmental permit issued for the article and kept on file at the port of departure;

(c) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plant pests and diseases; and,

(d) With a Departmental tag or label bearing the number of the Departmental permit issued for the article securely attached to the outside of the container of the article or securely attached to the article itself if not in a container.

[54 FR 3580, Jan. 25, 1989]

§ 318.13–14 Parcel post inspection.

Inspectors are authorized in accordance with the postal laws and regulations and in cooperation with employees of the U.S. Post Office Department, to inspect parcel post packages placed in the mails in Hawaii and destined to other parts of the United States, to determine whether such packages contain fruits, vegetables, or other regulated articles, the movement of which is not authorized under this subpart, to examine such articles for plant pests, and to notify the postmaster in writing of any violation of this subpart or part 330 of this chapter in connection therewith.

[33 FR 14623, Oct. 1, 1968. Redesignated at 54 FR 3580, Jan. 25, 1989]

§ 318.13–15 Costs and charges.

Services of the inspector during regularly assigned hours of duty at the

⁵Form No. PPQ 232.

⁶An acceptable warning notice appears on Form PPQ-232.

usual places of duty shall be furnished without cost to the one requesting such services. The Animal and Plant Health Inspection Service will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical movement of regulated articles or plant pests.

[33 FR 14623, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 54 FR 3580, Jan. 25, 1989, and further amended at 55 FR 38979, Sept. 24, 1990]

§318.13-16 Withdrawal of certificates, transit permits, limited permits, or compliance agreements.

Any certificate, transit permit, limited permit, or compliance agreement which has been issued or authorized may be withdrawn by an inspector orally or in writing, if such inspector determines that the holder thereof has not complied with all conditions under the regulations for the use of such document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate, transit permit, limited permit, or compliance agreement has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate, transit permit, or limited permit was wrongfully withdrawn. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0088)

[52 FR 8865, Mar. 20, 1987. Redesignated at 54 FR 3580, Jan. 25, 1989, and further amended at 55 FR 38979, Sept. 24, 1990; 58 FR 7959, Feb. 11, 1993; 58 FR 40190, July 27, 1993; 59 FR 67133, Dec. 29, 1994]

§318.13-17 Transit of fruits and vegetables from Hawaii into or through the continental United States.

Fruits and vegetables from Hawaii otherwise prohibited movement from the State of Hawaii into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with this section and any other applicable provisions of this subpart. Any additional restrictions on such movement that would otherwise be imposed by part 301 of this chapter and §§318.30 and 318.30a of this part shall not apply.

(a) *Transit permit.* (1) A transit permit is required for the arrival, unloading, and movement into or through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved into or through the continental United States from Hawaii. Application for a transit permit must be made in writing.⁷ The transit permit application must include the following information:

(i) The specific types of fruits and vegetables to be shipped (only scientific or English names are acceptable);

(ii) The means of conveyance to be used to transport the fruits and vegetables into or through the continental United States;

(iii) The port of arrival in the continental United States, and the location of any subsequent stop;

(iv) The location of, and the time needed for, any storage in the continental United States;

(v) Any location in the continental United States where the fruits and vegetables are to be transloaded;

(vi) The means of conveyance to be used for transporting the fruits and vegetables from the port of arrival in the continental United States to the port of export;

(vii) The estimated time necessary to accomplish exportation, from arrival at the port of arrival in the continental

⁷Applications for transit permits should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

United States to exit at the port of export;

(viii) The port of export; and

(ix) The name and address of the applicant and, if the applicant's address is not within the territorial limits of the United States, the name and address in the United States of an agent whom the applicant names for acceptance of service of process.

(2) A transit permit will be issued only if the following conditions are met:

(i) APHIS inspectors are available at the port of arrival, port of export, and any locations at which transloading of cargo will take place, and, in the case of air shipments, at any interim stop in the continental United States, as indicated on the application for the transit permit;

(ii) The application indicates that the proposed movement would comply with the provisions in this section applicable to the transit permit; and

(iii) During the 12 months prior to receipt of the application by APHIS, the applicant has not had a transit permit withdrawn under § 318.13-16 of this subpart, unless the transit permit has been reinstated upon appeal.

(b) *Limited permit.* Fruits and vegetables shipped from Hawaii into or through the continental United States under this section must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the continental United States, and at any other location in the continental United States where an air shipment is authorized to stop or where overland shipments change means of conveyance. An inspector will issue a limited permit if the following conditions are met:

(1) The inspector determines that the specific type and quantity of the fruits and vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English names are acceptable.) The fruits and vegetables shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this section; and

(2) The inspector establishes that the shipment of fruits and vegetables has been prepared in compliance with the provisions of this section.

(c) *Marking requirements.* Each of the smallest units, including each of the smallest bags, crates, or cartons, containing fruits and vegetables for transit into or through the continental United States under this section must be conspicuously marked, prior to the locking and sealing of the container in Hawaii, with a printed label that includes a description of the specific type and quantity of the fruits and vegetables (only scientific or English names are acceptable), the transit permit number under which the fruits and vegetables are to be shipped, and, in English, the fact that they were grown in Hawaii and the statement "Distribution in the United States is Prohibited."

(d) *Handling of fruits and vegetables.* Fruits and vegetables shipped into or through the continental United States from Hawaii in accordance with this section may not be commingled in the same sealed container with articles that are intended for entry and distribution in the continental United States. The fruits and vegetables must be kept in sealed containers from the time the limited permit required by paragraph (b) of this section is issued, until the fruits and vegetables exit the continental United States, except as otherwise provided in the regulations in this section. Transloading must be carried out in accordance with the requirements of paragraphs (a), (h), and (i) of this section.

(e) *Area of movement.* The port of arrival, the port of export, ports for air stops, and overland movement within the continental United States of fruits and vegetables shipped under this section is limited to a corridor that includes all States of the continental United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments

that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into the designated corridor by the shortest route. Movement through the continental United States must begin and end at locations staffed by APHIS inspectors.⁸

(f) *Movement of fruits and vegetables.* Transportation through the continental United States shall be by the most direct route to the final destination of the shipment in the country to which it is exported, as determined by APHIS based on commercial shipping routes and timetables and set forth in the transit permit. No change in the quantity of the original shipment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the shipment from the itinerary described in the transit permit and limited permit is allowed unless authorized by an APHIS inspector upon determination by the inspector that the change will not significantly increase the risk of plant pests or diseases in the United States, and unless each port to which the shipment is diverted is staffed by APHIS inspectors.

(g) *Notification in case of emergency.* In the case of an emergency such as an accident, a mechanical breakdown of the means of conveyance, or an unavoidable deviation from the prescribed route, the person in charge of the means of conveyance must, as soon as practicable, notify the APHIS office at the port where the cargo arrived in the continental United States.

(h) *Shipments by sea.* Except as authorized by this paragraph, shipments arriving in the continental United States by sea from Hawaii may be transloaded once from a ship to another ship or, alternatively, once to a truck or railcar at the port of arrival and once from a truck or railcar to a ship at the port of export, and must remain in the original sealed container, except under extenuating circumstances and when authorized by an

inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(i) *Shipments by air.* (1) Shipments arriving in the continental United States by air from Hawaii may be transloaded only once in the continental United States. Transloading of air shipments must be carried out in the presence of an APHIS inspector. Shipments arriving by air that are transloaded may be transloaded either into another aircraft or into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second air stop within the designated corridor, as authorized in the transit permit and as provided in paragraph (i)(2) of this section. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air shipments will be authorized only if the following conditions are met:

(i) The transloading is done into sealable containers;

(ii) The transloading is carried out within the secure area of the airport—*i.e.*, that area of the airport that is open only to personnel authorized by the airport security authorities;

⁸For a list of ports staffed by APHIS inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

(iii) The area used for any storage is within the secure area of the airport; and

(iv) APHIS inspectors are available to provide the supervision required by paragraph (i)(1) of this section.

(2) Except as authorized by paragraph (f) of this section, shipments that continue by air from the port of arrival in the continental United States may be authorized by APHIS for only one additional stop in the continental United States, provided the second stop is within the designated corridor set forth in paragraph (e) of this section and is staffed by APHIS inspectors. As an alternative to transloading a shipment arriving in the United States into another aircraft, shipments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second authorized air stop within the designated corridor. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(j) *Duration and location of storage.* Any storage in the continental United States of fruits and vegetables shipped under this section must be for a duration and in a location authorized in the transit permit required by paragraph (a) of this section. Areas where such fruits and vegetables are stored must be either locked or guarded at all times the fruits and vegetables are present. Cargo shipped under this section must be kept in a sealed container while stored in the continental United States.

(k) *Temperature requirement.* Except for time spent on aircraft and except during storage and transloading of air shipments, the temperature in the sealed containers containing fruits and

vegetables moved under this section must be 60 °F or lower from the time the fruits and vegetables leave Hawaii until they exit the continental United States.

(l) *Prohibited materials.* (1) The person in charge of or in possession of a sealed container used for movement into or through the continental United States under this section must ensure that the sealed container is carrying only those fruits and vegetables authorized by the transit permit required under paragraph (a) of this section; and

(2) The person in charge of or in possession of any means of conveyance or container returned to the United States without being reloaded after being used to export fruits and vegetables from the United States under this section must ensure that the means of conveyance or container is free of materials prohibited importation into the United States under this chapter.

(m) Authorization by APHIS of the movement of fruits and vegetables into or through the continental United States under this section does not imply that the fruits and vegetables are enterable into the destination country. Shipments returned to the United States from the destination country shall be subject to all applicable regulations, including “Subpart—Fruits and Vegetables” of part 319 of this chapter, and part 352 of this chapter.

(n) Any restrictions and requirements with respect to the arrival, temporary stay, unloading, transloading, transiting, exportation, or other movement or possession in the United States of any fruits or vegetables under this section shall apply to any person who, respectively, brings into, maintains, unloads, transloads, transports, exports, or otherwise moves or possesses in the United States such fruits or vegetables, whether or not that person is the one who was required to have a transit permit or limited permit for the fruits or vegetables or is a subsequent custodian of the fruits or vegetables. Failure to comply with all applicable restrictions and requirements under this section by such a person

§ 318.47

shall be deemed to be a violation of this section.

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[58 FR 7959, Feb. 11, 1993; 58 FR 40190, July 27, 1993, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67609, Dec. 30, 1994; 71 FR 4463, Jan. 27, 2006]

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

§ 318.47 Notice of quarantine.

(a) The Secretary of Agriculture having previously quarantined Hawaii and Puerto Rico on account of the pink bollworm of cotton (*Pectinophora gossypiella* Saunders) and the cotton blister mite (*Eriophyes gossypii* Banks), insect pests new to and not widely prevalent or distributed within and throughout the United States, now determines that it is necessary to extend the quarantine to prevent the spread of these insects from the Virgin Islands of the United States, where they are known to occur.

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the aforementioned insect pests.

(c) All parts and products of plants of the genus *Gossypium*, such as seeds including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and all second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton, are hereby prohibited movement from the Hawaii, Puerto Rico, and the Virgin Islands of the United States into or through any other State, Territory or District of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Deputy Administrator of the Plant

Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any such regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective.

(d) As used in this subpart, unless the context otherwise requires, the term *State, Territory, or District of the United States* means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

[24 FR 10777, Dec. 29, 1959, as amended at 66 FR 21054, Apr. 27, 2001]

§ 318.47a Administrative instructions relating to Guam.

The plants, products and articles specified in § 318.47(c) may be moved from Hawaii into or through Guam without restriction under this subpart.

RULES AND REGULATIONS

CROSS REFERENCE: For rules and regulations governing the importation of cotton and cottonseed products into the United States, see §§ 319.8 to 319.8-27 of this chapter.

§ 318.47-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Cotton*. Parts and products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton.

(b) *Seed cotton*. The unginning lint and seed admixture, just as it is picked from the cotton boll.

(c) *Cottonseed*. The seed of the cotton plant, either separated from the lint or as a component part of seed cotton.

(d) *Lint*. All forms of raw or unmanufactured ginned cotton, either baled or unbaled, including all cotton fiber, except linters, which has not been woven or spun, or otherwise manufactured.

(e) *Linters*. All forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed, including that form referred to as "hull fiber."

(f) *Waste*. All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste; and waste products derived from the milling of cottonseed.

(g) *Seedy waste*. Picker waste, gin waste, and oil mill waste, and any other cotton by-products capable of carrying a high percentage of cottonseed.

(h) *Clean waste*. Wastes derived from the processing of lint in machines after the card machine, including card strips but not card fly.

(i) *Bale covers*. Second-hand burlap and other second-hand fabric by whatever trade designation, which have been used, or are of the kinds ordinarily used, for wrapping or otherwise containing cotton. Burlap and other fabric of the kinds ordinarily used for wrapping cotton, when new or unused, are excluded from this definition.

(j) *Certificate (certification, certified)*. A type of authorization, evidencing freedom from infestation, issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste, seed cotton, cottonseed, cottonseed hulls, cake, and meal, and bale covers in accordance with the regulations in this subpart. "Certification" and "certified" shall be construed accordingly.

(k) *Permit*. A type of general authorization issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste other than seedy waste, cottonseed cake and meal, and bale covers in accordance with the regulations in this subpart.

(l) *Fumigated*. Fumigated under the supervision of an inspector of the Plant

Protection and Quarantine Programs in a fumigation plant approved by the Deputy Administrator of said Programs and in accordance with methods approved by him.

(m) *Moved (movement, move)*. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii, Puerto Rico, or the Virgin Islands of the United States, into or through any other State, Territory, or District of the United States. "Movement" and "move" shall be construed accordingly.

§ 318.47-2 Articles the movement of which is prohibited or regulated.

(a) *Articles prohibited movement*. The movement of seed cotton, cottonseed, and seedy waste, when unfumigated, is prohibited except as provided in § 318.47-3(b)(2).

(b) *Articles the movement of which is regulated*. Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers may be moved upon compliance with the conditions prescribed in § 318.47-3.

§ 318.47-3 Conditions governing the issuance of certificates and permits.

(a) *Fumigated lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers*. Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers, fumigated in the Territory or District of origin and so certified, are allowed unrestricted movement to any port.

(b) *Unfumigated lint, linters, waste, and bale covers*. (1) Unfumigated Hawaiian, Puerto Rican, or Virgin Islands of the United States lint, linters, waste other than seedy waste, and bale covers will be allowed to move under permit, by all-water route, for entry only at the ports of Norfolk, Baltimore, New York, Boston, San Francisco, and Seattle, or other port of arrival designated in the permit, and at such designated port of arrival shall become subject to the regulations governing the handling of cotton imported from foreign countries.

(2) Fumigation may be waived and certificates issued for lint, linters, and waste which have been determined by an inspector of the Plant Protection and Quarantine Programs to have been so manufactured or processed by bleaching, dyeing, or other means, as to have removed all seeds, or to have destroyed all insect life therein.

(c) *Cottonseed cake and meal.* (1) Cottonseed cake and meal which have been inspected in the Territory or District of origin and certified by an inspector of the Plant Protection and Quarantine Programs as being free from contamination with whole, uncrushed cottonseed, will be allowed unrestricted movement to any port.

(2) Hawaiian, Puerto Rican, and Virgin Islands of the United States cottonseed cake and meal, when neither fumigated nor inspected in accordance with the provisions of this section, will be allowed entry under permit through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination with uncrushed cottonseed. If found to be free from such contamination, the cottonseed cake or meal may be released from further entry restrictions. Cottonseed cake or meal found to be contaminated shall be refused entry or subjected as a condition of entry and release to such safeguards as may be prescribed by the inspector from such administratively approved methods as will, in his judgment, be necessary to eliminate infestations of the pink bollworm or cotton blister mite.

§ 318.47-4 Shipments by the Department of Agriculture.

Cotton may be moved by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Service.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

§ 318.58 Notice of quarantine.

(a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Puerto Rico and the Virgin Islands of the United States are quarantined to prevent the spread of certain dangerous insects that are not widely prevalent or distributed within and throughout the United States, including the fruit flies *Anastrepha suspensa* (Loew) and *obliqua*; the bean pod borer *Maruca testulalis* (Geyer); and a cactus borer, *Cactoblastis cactorum* (Berg.).

(b) No fruits or vegetables, in the raw or unprocessed state, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, by any person from Puerto Rico or the Virgin Islands of the United States into or through Guam, Hawaii, or the continental United States, and no cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, by any person from the Virgin Islands of the United States into or through Guam, Puerto Rico, or the continental United States; in any manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Administrator shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, the administrator shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or the administrator may, when the public interest will permit, with respect to the

movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) Except for pigeon peas (fresh shelled or in the pod) moved from Puerto Rico to the U.S. Virgin Islands, which must meet the requirements of § 318.58-2(b)(4), no restrictions are placed on the movement of fruits or vegetables in either direction between Puerto Rico and the U.S. Virgin Islands.

(d) This subpart leaves in full force and effect § 318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(e) Regulations governing the movement of live plant pests designated in this section are contained in part 330 of this chapter.

[28 FR 13281, Dec. 7, 1963, as amended at 30 FR 748, Jan. 23, 1965; 66 FR 21054, Apr. 27, 2001; 68 FR 2683, Jan. 21, 2003; 68 FR 28114, May 23, 2003; 70 FR 33324, June 7, 2005; 71 FR 4463, Jan. 27, 2006]

RULES AND REGULATIONS

§ 318.58-1 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the Animal and Plant Health Inspection Service authorized to act in the Administrator's stead.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

Cactus plants. Any of various fleshy-stemmed plants of the botanical family Cactaceae.

Certificate. A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, ex-

press, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

Continental United States. The 48 contiguous States, Alaska, and the District of Columbia.

Fruits and vegetables. The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

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

Limited permit. A document issued by an inspector for the interstate movement of regulated articles to a specified destination for:

(1) Consumption, limited utilization or processing, or treatment, in conformity with a compliance agreement; or

(2) Movement into or through the continental United States in conformity with a transit permit.

Means of conveyance. For the purposes of § 318.58-12 of this subpart, "means of conveyance" shall mean a ship, truck, aircraft, or railcar.

Moved (movement and move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person as specified in § 318.58(b) with respect to fruits and vegetables and with respect to fruits and vegetables and with respect to cactus plants and parts thereof. "Movement" and "move" shall be construed accordingly.

§ 318.58-2

7 CFR Ch. III (1-1-09 Edition)

Person. Any individual, corporation, company, society, association, or other organized group.

Plant litter. Leaves, twigs, or other portions of plants, or plant remains or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

Sealed (sealable) container. A completely enclosed container designed for the storage and/or transportation of commercial air, sea, rail, or truck cargo, and constructed of metal or fiberglass, or other similarly sturdy and impenetrable material, providing an enclosure accessed through doors that are closed and secured with a lock or seal. Sealed (sealable) containers used for sea shipments are distinct and separable from the means of conveyance carrying them when arriving in and in transit through the continental United States. Sealed (sealable) containers used for air shipments are distinct and separable from the means of conveyance carrying them before any transloading in the continental United States. Sealed (sealable) containers used for air shipments after transloading in the continental United States or for overland shipments in the continental United States may either be distinct and separable from the means of conveyance carrying them, or be the means of conveyance itself.

State. Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, and all other territories and possessions of the United States.

Transit permit. A written authorization issued by the Administrator for the movement of fruits and vegetables en route to a foreign destination that are otherwise prohibited movement by this subpart into or through the continental United States. Transit permits authorize one or more shipments over a designated period of time.

Transloading. The transfer of cargo from one sealable container to another, from one means of conveyance to another,

or from a sealable container directly into a means of conveyance.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971; 54 FR 3580, Jan. 25, 1989; 58 FR 7961, Feb. 11, 1993; 71 FR 4463, Jan. 27, 2006]

§ 318.58-2 Regulated articles.

(a) *Prohibited movement.* Fruits, vegetables, and other products specified in § 318.58 and not eligible for inspection and certification under § 318.58-4 or otherwise expressly authorized movement in the regulations in this subpart are prohibited movements.

(b) *Regulated movement.* (1) Subject to the conditions provided in this section, and to any treatment prescribed by the Administrator, the following fruits and vegetables may be moved when they are free from plant litter, are marked in compliance with § 318.58-6, and have been inspected by an inspector and certified by the inspector to be free from injurious insect infestation (including the West Indian fruit fly and the bean pod borer) or to have been given prescribed treatment:

Citrus fruits (orange, grapefruit, lemon, citron, and lime);

Corn (sweet corn on cob);

Mangoes (*Mangifera* spp.), no larger than 900 grams each, when treated as prescribed in part 305 of this chapter; Peppers;

Pigeon peas (in the pod) from the U.S. Virgin Islands and string beans, lima beans, faba beans, and fresh okra from Puerto Rico or the U.S. Virgin Islands.¹

(2) The following fruits and vegetables are subject to inspection, either in the field or when presented for shipment, as the inspector may require, but unless found by the inspector to be infested shall be free to move without certification, marking, treatment, or other requirements of this subpart, except that they must be free from plant

¹These products will be certified for movement to Pacific Coast ports or to Atlantic Coast ports south of Baltimore, MD, only when they have been treated as prescribed in part 305 of this chapter. Such products may be certified for movement to Baltimore, MD, and Atlantic Coast ports north of Baltimore without such treatment, but untreated fresh okra may be so certified only for immediate processing or consumption in these northern areas.

litter and soil: *Provided*, That if the inspector shall find any field, grove, lot, shipment, or container of such fruits and vegetables infested with injurious insects, the inspector shall notify the owner or person in charge, in writing, of the existence of the infestation and the extent thereof, and thereafter movement of the fruit or vegetable so specified shall be prohibited while the infestation persists, unless in the judgment of the inspector movement may be safely allowed subject to certification after having been given an approved treatment, or after sorting, conditioning, or other effective safeguard measures:

Algarroba pods (*Hymenaea courbaril*).
 Allium spp. (onion, chive, garlic, leek, scallion, shallot).
 Anise (*Pimpinella anisum*).
 Apio, celery root (*Arracacia xanthorrhiza*).
 Arrowroot (*Maranta arundinacea*).
 Artichoke, Jerusalem (Helianthus tuberosus).
 Asparagus.
 Avocado.
 Balsamapple, balsam-pear (*Momordica balsamina*; *M. charantia*).
 Banana and plantain (fruit).
 Banana leaves (fresh, without stalks or midrib).
 Beans (fresh shelled lima and faba beans).
 Beet, including Swiss chard.
 Brassica oleracea (cabbage, cauliflower, Brussels sprouts, broccoli, collard, kale, kohlrabi, Savoy).
 Breadfruit, jackfruit (*Artocarpus* spp.).
 Cacao bean (*Theobroma cacao*).
 Carrot.
 Celery.
 Chayote (*Sechium edule*).
 Chicory, endive (*Cichorium intybus*).
 Citrus fruit (citron, grapefruit, lemon, lime, and orange) destined for ports on the Atlantic seaboard north of and including Baltimore.
 Cucumbers, including Angola cucumber (*Sicana odorata*).
 Culantro, coriander (*Eryngium foetidum*; *Coriandrum sativum*).
 Dasheen, malanga, taro (*Colocasia* and *Caladium* spp.).
 Eggplant.
 Fennel.
 Ginger root (*Zingiber officinale*).
 Horseradish (*Armoracia*).
 Kudzu (*Pueraria thunbergiana*).
 Lerens, sweet corn root (*Calathea allouia*).
 Lettuce.
 Mangosteen (*Garcinia mangostana*).
 Mustard greens.
 Palm hearts.
 Papaya, lechosa (*Carica papaya*).

Parsley.
 Parsnip.
 Peas (in pod) (*Pisum sativum*).
 Pigeon peas (fresh shelled) from the U.S. Virgin Islands.
 Pineapple.
 Potato.
 Quenepa (*Melicocca bijuga*).
 Radish.
 Rhubarb.
 Rutabaga.
 Spinach.
 Squash, pumpkin, watermelon, vegetable-marrow, cantaloup, calabaza.
 Strawberry.
 Sweetpotato (*Ipomoea batatas* Poir.)
 Tamarind beanpod (*Tamarindus indica*).
 Tomato.
 Turnip.
 Watercress.
 Waterlily root, lotus root (*Nelumbium nelumbo*).
 Yam, name (*Dioscorea* spp.).
 Yautia, tanier (*Xanthosoma* spp.).
 Yuca, cassava (*Manihot esculenta*).

(3) Cactus plants or parts thereof from the Virgin Islands of the United States may be moved to Guam, Puerto Rico, or the continental United States when they have been given an approved treatment and are so certified by an inspector.

(4) Pigeon peas (fresh shelled or in the pod) from Puerto Rico may be moved to any other area of the United States only if treated in accordance with part 305 of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 30 FR 749, Jan. 23, 1965; 36 FR 24917, Dec. 24, 1971. Redesignated and amended at 54 FR 3580, Jan. 25, 1989; 55 FR 5436, Feb. 15, 1990; 68 FR 2683, Jan. 21, 2003; 68 FR 28114, May 23, 2003; 70 FR 33324, June 7, 2005; 71 FR 4463, Jan. 27, 2006]

§ 318.58-3 Conditions of movement.

(a) *To any destination.* Any regulated articles may be moved interstate from Puerto Rico or the Virgin Islands of the United States in accordance with this subpart to any destination if:

(1) The movement is authorized by a valid certificate issued in accordance with § 318.58-4, or

(2) The movement is exempted from certificate requirements by administrative instructions in this subpart.

(b) *To a foreign destination after transiting the continental United States.* Fruits and vegetables from Puerto Rico and the Virgin Islands of the United States that are otherwise prohibited

movement from those territories into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with §318.58-12 of this subpart.

(c) *Segregation of certified articles.* Articles authorized for movement by a certificate after treatment in accordance with §318.58-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Puerto Rico or the Virgin Islands of the United States, must, under the supervision of an inspector, be segregated and protected from infestation by any plant pest or disease.

(d) *Attachment of certificates.* Except as otherwise provided for certain air cargo and containerized cargo on ships moved in accordance with §318.58-10, each box, bale, crate, or other container of regulated articles moved under a certificate shall have the certificate attached to the outside of the container: *Provided*, that if a certificate is issued for a shipment of more than one container or for bulk products, the certificate shall be attached to or stamped on the accompanying waybill, manifest, or bill of lading.

[54 FR 3580, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§318.58-4 Issuance of certificates or limited permits.

Under the following conditions, an inspector may issue a certificate or limited permit for the movement of regulated articles to be moved in accordance with this subpart:

(a) *Certification on basis of inspection or nature of lot involved.* An inspector may issue a certificate for fruits and vegetables designated in §318.58-2(b)(1) after the inspector has inspected them and found that they appear free from infestation and infection, or has determined without an inspection that the lot for shipment is of such a nature that there appears to be no danger of infestation or infection.

(b) *Certification on basis of treatment.* Fruits and vegetables designated in §318.58-2(b) may be certified after undergoing an approved treatment contained in part 305 of this chapter under the supervision of an inspector and if the articles are handled after treat-

ment in accordance with all conditions that the inspector requires. Treatments shall be applied at the expense of the shipper, owner, or person in charge of the articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised under this subpart.

(c) An inspector may issue a limited permit for the movement of fruits and vegetables otherwise prohibited movement under this subpart, if the articles are to be moved in accordance with §318.58-12 of this subpart.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993; 67 FR 8465, Feb. 25, 2002; 70 FR 33324, June 7, 2005]

§318.58-4a Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.

(a) The Administrator of the Animal and Plant Health Inspection Service, pursuant to the authority contained in §§318.58-2 and 318.58-3, approves the process of quick freezing in accordance with part 305 of this chapter as a treatment for all fruits and vegetables described in §318.58-2, except as otherwise provided in paragraph (c) of this section. Such frozen fruits and vegetables may be certified for movement from Puerto Rico into or through any other Territory, State, or District of the United States in accordance with §318.58-3.²

(b) The inspector in Puerto Rico shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Puerto Rico.

(c) The movement from Puerto Rico of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may

²Further information concerning the movement of frozen fruits and vegetables from Puerto Rico may be obtained from the Plant Protection and Quarantine Programs, Room 4, Post Office Bldg., P.O. Box 3386, San Juan, PR 00901.

Animal and Plant Health Inspection Service, USDA

§ 318.58-7

not, in the judgment of the Administrator, be destroyed by freezing.

[24 FR 10777, Dec. 29, 1959. Redesignated at 54 FR 3581, Jan. 25, 1989; 68 FR 2684, Jan. 21, 2003; 70 FR 33324, June 7, 2005; 70 FR 40879, July 15, 2005]

§ 318.58-4b Irradiation treatment of regulated articles from Puerto Rico and the U.S. Virgin Islands.

Any regulated articles from Puerto Rico or the U.S. Virgin Islands that are required by this subpart to be treated or subjected to inspection to control one or more of the plant pests listed in § 305.31(a) of this chapter may instead be treated with irradiation. Commodities treated with irradiation for plant pests listed in § 305.31(a) must be irradiated at the doses listed in § 305.31(a), and the irradiation treatment must be conducted in accordance with the other requirements of § 305.34.

[71 FR 4463, Jan. 27, 2006]

§ 318.58-4c Movement of sweetpotatoes from Puerto Rico to certain ports.

Sweetpotatoes from Puerto Rico may be moved interstate to Atlantic Coast ports north of and including Baltimore, MD, if the following conditions are met:

(a) The sweetpotatoes must be certified by an inspector of the Commonwealth of Puerto Rico as having been grown under the following conditions:

(1) Fields in which the sweetpotatoes have been grown must have been given a preplanting treatment with an approved soil insecticide.

(2) Before planting in such treated fields, the sweetpotato draws and vine cuttings must have been dipped in an approved insecticidal solution.

(3) During the growing season an approved insecticide must have been applied to the vines at prescribed intervals.

(b) An inspector of the Commonwealth of Puerto Rico must certify that the sweetpotatoes have been washed.

(c) The sweetpotatoes must be graded by inspectors of the Commonwealth of Puerto Rico in accordance with Puerto Rican standards which do not provide a tolerance for insect infestation or evidence of insect injury and found by such inspectors to comply with such

standards prior to movement from Puerto Rico.

(d) The sweetpotatoes must be inspected by an inspector and found to be free of the sweetpotato scarabee (*Euscepes postfasciatus* Fairm.).

[71 FR 4463, Jan. 27, 2006]

§ 318.58-5 Application for inspection.

Persons intending to move any of the products for which certification is required under § 318.58-3 shall make application for inspection thereof as far as possible in advance of the probable date of shipment. The application shall show the quantity of the products which it is proposed to move, their identifying marks and numbers, their exact location, and the contemplated date of shipment. Forms on which to make application for inspection will be furnished, upon request, by the United States Department of Agriculture, Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971. Redesignated at 54 FR 3580, Jan. 25, 1989]

§ 318.58-6 Marking of containers.

No products for which certification is required under § 318.58-3 shall be moved unless the crate, box, bale, or other container thereof is so marked with the marks and numbers given on the application that it may be identified at the port of first arrival.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-7 Products as ships' stores or in the possession of passengers and crew.

The movement of products is permitted from Puerto Rico or the Virgin Islands of the United States as ships' stores or in the possession of passengers and crew on ships or other ocean-going craft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States or aircraft moving from Puerto Rico or the Virgin Islands of the United States to Guam: *Provided*, That all such products shall upon arrival in Hawaii, Guam, or the continental

§ 318.58-8

United States be submitted for inspection and disposition as provided in §318.58-8, they must be free from infestation with injurious insects; those products not listed in §318.58-3 shall not be landed; and prohibited products retained aboard shall be subject to the safeguards provided in §352.8 of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 54 FR 3581, Jan. 25, 1989; 58 FR 7962, Feb. 11, 1993]

§ 318.58-8 Articles and persons subject to inspection.

Persons, means of conveyance (including ships, other ocean-going craft, and aircraft), baggage, cargo, and any other articles that are destined for movement, are moving, or have been moved from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States are subject to agricultural inspection at the port of departure, the port of arrival, and/or any other authorized port. If an inspector finds any article prohibited movement by the quarantine and regulations of this subpart, he or she, taking the least drastic action, shall order the return of the article to the place of origin or the exportation of the article, under safeguards satisfactory to him or her, or otherwise dispose of it, in whole or part, to comply with the quarantine and regulations of this subpart.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§ 318.58-9 Inspection of means of conveyance.

(a) *Inspection of aircraft prior to departure.* No person shall move any aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, District, or Territory of the United States, except Guam, unless the person moving the aircraft has contacted an inspector and offered the inspector the opportunity to inspect the aircraft prior to departure and the inspector has informed the person proposing to move the aircraft that the aircraft may depart.

(b) *Inspection of aircraft moving to Guam.* Any person who has moved an aircraft from Puerto Rico or the Virgin Islands of the United States to Guam

7 CFR Ch. III (1-1-09 Edition)

shall contact an inspector and offer the inspector the opportunity to inspect the aircraft upon the aircraft's arrival in Guam, unless the aircraft has been inspected and cleared in Puerto Rico or the Virgin Islands prior to departure in accordance with arrangements between the operator of the aircraft, the Animal and Plant Health Inspection Service, and the government of Guam.

(c) *Inspection of ships upon arrival.* Any person who has moved a ship or other ocean-going craft from Puerto Rico or the Virgin Islands of the United States to any other State, District, or Territory of the United States shall contact an inspector and offer the inspector the opportunity to inspect the ship or other ocean-going craft upon its arrival.

[54 FR 3581, Jan. 25, 1989]

§ 318.58-10 Inspection of baggage, other personal effects, and cargo.

(a) *Offer for inspection by aircraft passengers.* Passengers destined for movement by aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, shall offer their carry-on baggage and other personal effects for inspection at the place marked for agricultural inspections, which will be located at the airport security checkpoint or the aircraft boarding gate, at the time they pass through the checkpoint or the gate. Passengers shall offer their check-in baggage for inspection at agricultural inspection stations prior to submitting their baggage to the check-in baggage facility. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that the baggage or personal effects have been inspected and passed as required. Passengers shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a passenger's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The passenger shall state his or her name and address

to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the passenger, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(b) *Offer for inspection by aircraft crew.* Aircraft crew members destined for movement by aircraft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, shall offer their baggage and personal effects for inspection at the inspection station designated for the employing airline not less than 20 minutes prior to the scheduled departure time of the aircraft or the rescheduled departure time as posted in the public areas of the airport. When an inspector has inspected and passed such baggage or personal effects, he or she shall apply a USDA stamp, inspection sticker, or other identification to the baggage or personal effects to indicate that such baggage or personal effects have been inspected and passed as required. Aircraft crew members shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a crew member's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The crew member shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the crew member, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(c) *Baggage inspection for persons traveling to Guam on aircraft.* No person who has moved from Puerto Rico or the Virgin Islands of the United States to Guam on an aircraft shall remove or attempt to remove any baggage or other personal effects from the area secured for customs inspections before the person has offered to an inspector, and had passed by the inspector, his or

her baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification. The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(d) *Baggage accepting and loading on aircraft.* No person shall accept or load any check-in aircraft baggage destined for movement from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, unless a certificate is attached to the baggage, or the baggage bears a USDA stamp, inspection sticker, or other indication applied by an inspector representing that the baggage has been offered for inspection and passed by an inspector.

(e) *Offer for inspection by persons moving by ship.* No person who has moved on any ship or other ocean-going craft from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States shall remove or attempt to remove any baggage or other personal effects from a designated inspection area as provided in § 318.58-10(h), on or off the ship or other ocean-going craft unless the person has offered to an inspector for inspection, and has passed by the inspector, the baggage and other personal effects. Persons shall disclose any fruits, vegetables, plants, plant products, or other articles that are requested to be disclosed by the inspector. When an inspection of a person's baggage or personal effects discloses an article in violation of the regulations in this part, the inspector shall seize the article. The person shall state his or her name and address to the inspector, and provide the inspector with corroborative identification.

§ 318.58-11

7 CFR Ch. III (1-1-09 Edition)

The inspector shall record the name and address of the person, the nature of the identification presented for corroboration, the nature of the violation, the types of articles involved, and the date, time, and place of the violation.

(f) *Loading of certain cargoes.* (1) Except as otherwise provided in paragraph (f)(2) of this section, no person shall present to any common carrier or contract carrier for movement, and no common carrier or contract carrier shall load, any cargo containing fruits, vegetables, or other articles regulated under this subpart that are destined for movement from Puerto Rico or the Virgin Islands of the United States to any other State, Territory, or District of the United States, except Guam, unless the cargo has been offered for inspection, passed by an inspector, and bears of USDA stamp or USDA inspection sticker, or unless a certificate or limited permit is attached to the cargo as specified in §318.58-3(d).

(2) Cargo designated in paragraph (f)(1) of this section may be loaded without a USDA stamp or USDA inspection sticker, and without a certificate attached to the cargo or a limited permit attached to the cargo, if the cargo is moved:

- (i) As containerized cargo on ships or other ocean-going craft or as air cargo;
- (ii) The carrier has on file documentary evidence that a valid certificate or limited permit was issued for the movement; and
- (iii) A notation of the existence of these documents is made by the carrier on the waybill, manifest, or bill of lading that accompanies the shipment.

(3) Cargo moved in accordance with §318.58-12 of this subpart that does not have a limited permit attached to the cargo must have a limited permit attached to the waybill, manifest, or bill of lading accompanying the shipment.

(g) *Removal of certain cargoes in Guam.* No person shall remove or attempt to remove from a designated inspection area as provided in §318.58-10(h), on or off the means of conveyance, any cargo moved from Puerto Rico or the Virgin Islands of the United States to Guam containing fruits, vegetables, or other articles regulated under this subpart, unless the cargo has been inspected and passed by an inspector in Guam.

(h) *Space and facilities for baggage inspection.* Baggage inspection will not be performed until the person in charge or possession of the ship, other ocean-going craft, or aircraft provides space and facilities on the means of conveyance, pier or airport that are adequate, in the inspector's judgment, for the performance of inspections.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§ 318.58-11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains any plant pest, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo, in accordance with an approved method contained in part 305 of this chapter under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo.

[67 FR 8465, Feb. 25, 2002, as amended at 70 FR 33324, June 7, 2005]

§ 318.58-12 Transit of fruits and vegetables from Puerto Rico and the Virgin Islands of the United States into or through the continental United States.

Fruits and vegetables from Puerto Rico and the Virgin Islands of the United States that are otherwise prohibited movement from those territories into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with this section and any other applicable provisions of this subpart. Any additional restrictions on such movement that would otherwise be imposed by part 301 of this chapter and §§318.30 and 318.30a of this part shall not apply.

(a) *Transit permit.* (1) A transit permit is required for the arrival, unloading, and movement into or through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved into or through the continental United States

from Puerto Rico or the Virgin Islands of the United States. Application for a transit permit must be made in writing.³ The transit permit application must include the following information:

(i) The specific types of fruits and vegetables to be shipped (only scientific or English names are acceptable);

(ii) The means of conveyance to be used to transport the fruits and vegetables into or through the continental United States;

(iii) The port of arrival in the continental United States, and the location of any subsequent stop;

(iv) The location of, and the time needed for, any storage in the continental United States;

(v) Any location in the continental United States where the fruits and vegetables are to be transloaded;

(vi) The means of conveyance to be used for transporting the fruits and vegetables from the port of arrival in the continental United States to the port of export;

(vii) The estimated time necessary to accomplish exportation, from arrival at the port of arrival in the continental United States to exit at the port of export;

(viii) The port of export; and

(ix) The name and address of the applicant and, if the applicant's address is not within the territorial limits of the United States, the name and address in the United States of an agent whom the applicant names for acceptance of service of process.

(2) A transit permit will be issued only if the following conditions are met:

(i) APHIS inspectors are available at the port of arrival, port of export, and any locations at which transloading of cargo will take place, and, in the case of air shipments, at any interim stop in the continental United States, as indicated on the application for the transit permit;

(ii) The application indicates that the proposed movement would comply with the provisions in this section applicable to the transit permit; and

(iii) During the 12 months prior to receipt of the application by APHIS, the applicant has not had a transit permit withdrawn under § 318.58-16 of this subpart, unless the transit permit has been reinstated upon appeal.

(b) *Limited Permit.* Fruits and vegetables shipped from Puerto Rico or the Virgin Islands of the United States into or through the continental United States under this section must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the continental United States, and at any other location in the continental United States where an air shipment is authorized to stop or where overland shipments change means of conveyance. An inspector will issue a limited permit if the following conditions are met:

(1) The inspector determines that the specific type and quantity of the fruits and vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English names are acceptable.) The fruits and vegetables shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this section; and

(2) The inspector establishes that the shipment of fruits and vegetables has been prepared in compliance with the provisions of this section.

(c) *Marking requirements.* Each of the smallest units, including each of the smallest bags, crates, or cartons, containing fruits and vegetables for transit into or through the continental United States under this section must be conspicuously marked, prior to the locking and sealing of the container in Puerto Rico or the Virgin Islands of the United States, with a printed label that includes, a description of the specific type and quantity of the fruits and vegetables (only scientific or English names are acceptable), the transit permit number under which the fruits and vegetables are to be shipped, and, in English, the fact that they were

³Applications for transit permits should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

grown in Puerto Rico or the Virgin Islands of the United States and the statement "Distribution in the United States is Prohibited."

(d) *Handling of fruits and vegetables.* Fruits and vegetables shipped into or through the continental United States from Puerto Rico or the Virgin Islands of the United States in accordance with this section may not be commingled in the same sealed container with articles that are intended for entry and distribution in the continental United States. The fruits and vegetables must be kept in sealed containers from the time the limited permit required by paragraph (b) of this section is issued, until the fruits and vegetables exit the continental United States, except as otherwise provided in the regulations in this section. Transloading must be carried out in accordance with the requirements of paragraphs (a), (h), and (i) of this section.

(e) *Area of movement.* The port of arrival, the port of export, ports for air stops, and overland movement within the continental United States of fruits and vegetables shipped under this section is limited to a corridor that includes all States of the continental United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into the designated corridor by the shortest route. Movement through the continental United States must begin and end at locations staffed by APHIS inspectors.⁴

(f) *Movement of fruits and vegetables.* Transportation through the continental United States shall be by the most direct route to the final destination of the shipment in the country to

which it is exported, as determined by APHIS based on commercial shipping routes and timetables and set forth in the transit permit. No change in the quantity of the original shipment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the shipment from the itinerary described in the transit permit and limited permit is allowed unless authorized by an APHIS inspector upon determination by the inspector that the change will not significantly increase the risk of plant pests or diseases in the United States, and unless each port to which the shipment is diverted is staffed by APHIS inspectors.

(g) *Notification in case of emergency.* In the case of an emergency such as an accident, a mechanical breakdown of the means of conveyance, or an unavoidable deviation from the prescribed route, the person in charge of the means of conveyance must, as soon as practicable, notify the APHIS office at the port where the cargo arrived in the continental United States.

(h) *Shipments by sea.* Except as authorized by this paragraph, shipments arriving in the continental United States by sea from Puerto Rico or the Virgin Islands of the United States may be transloaded once from a ship to another ship or, alternatively, once to a truck or railcar at the port of arrival and once from a truck or railcar to a ship at the port of export, and must remain in the original sealed container, except under extenuating circumstances and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United

⁴For a list of ports staffed by APHIS inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

States, and provided that APHIS inspectors are available to provide supervision.

(i) *Shipments by air.* (1) Shipments arriving in the continental United States by air from Puerto Rico or the Virgin Islands of the United States may be transloaded only once in the continental United States. Transloading of air shipments must be carried out in the presence of an APHIS inspector. Shipments arriving by air that are transloaded may be transloaded either into another aircraft or into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second air stop within the designated corridor, as authorized in the transit permit and as provided in paragraph (i)(2) of this section. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air shipments will be authorized only if the following conditions are met:

(i) The transloading is done into sealable containers;

(ii) The transloading is carried out within the secure area of the airport—*i.e.*, that area of the airport that is open only to personnel authorized by the airport security authorities;

(iii) The area used for any storage is within the secure area of the airport; and

(iv) APHIS inspectors are available to provide the supervision required by paragraph (i)(1) of this section.

(2) Except as authorized by paragraph (f) of this section, shipments that continue by air from the port of arrival in the continental United States may be authorized by APHIS for only one additional stop in the continental United States, provided the second stop is within the designated corridor set

forth in paragraph (e) of this section and is staffed by APHIS inspectors. As an alternative to transloading a shipment arriving in the United States into another aircraft, shipments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second authorized air stop within the designated corridor. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(j) *Duration and location of storage.* Any storage in the continental United States of fruits and vegetables shipped under this section must be for a duration and in a location authorized in the transit permit required by paragraph (a) of this section. Areas where such fruits and vegetables are stored must be either locked or guarded at all times the fruits and vegetables are present. Cargo shipped under this section must be kept in a sealed container while stored in the continental United States.

(k) *Temperature requirement.* Except for time spent on aircraft and except during storage and transloading of air shipments, the temperature in the sealed containers containing fruits and vegetables moved under this section must be 60 °F or lower from the time the fruits and vegetables leave Puerto Rico or the Virgin Islands of the United States until they exit the continental United States.

(l) *Prohibited materials.* (1) The person in charge of or in possession of a sealed container used for movement into or through the continental United States under this section must ensure that the sealed container is carrying only those fruits and vegetables authorized by the

§ 318.58-13

7 CFR Ch. III (1-1-09 Edition)

transit permit required under paragraph (a) of this section; and

(2) The person in charge of or in possession of any means of conveyance or container returned to the United States without being reloaded after being used to export fruits and vegetables from the United States under this section must ensure that the means of conveyance or container is free of materials prohibited importation into the United States under this chapter.

(m) Authorization by APHIS of the movement of fruits and vegetables into or through the continental United States under this section does not imply that the fruits and vegetables are enterable into the destination country. Shipments returned to the United States from the destination country shall be subject to all applicable regulations, including "Subpart—Fruits and Vegetables" of part 319 of this chapter, and part 352 of this chapter.

(n) Any restrictions and requirements with respect to the arrival, temporary stay, unloading, transloading, transiting, exportation, or other movement or possession in the United States of any fruits or vegetables under this section shall apply to any person who, respectively, brings into, maintains, unloads, transloads, transports, exports, or otherwise moves or possesses in the United States such fruits or vegetables, whether or not that person is the one who was required to have a transit permit or limited permit for the fruits or vegetables or is a subsequent custodian of the fruits or vegetables. Failure to comply with all applicable restrictions and requirements under this section by such a person shall be deemed to be a violation of this section.

(Approved by the Office of Management and Budget under control number 0579-0088)

[58 FR 7962, Feb. 11, 1993; 58 FR 40190, July 27, 1993, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67609, Dec. 30, 1994; 68 FR 2684, Jan. 21, 2003]

§ 318.58-13 Movements by the Department of Agriculture.

Notwithstanding any other restrictions of this subpart, articles subject to the requirements of the regulations

in this subpart may be moved if they are moved:

(a) By the United States Department of Agriculture for experimental or scientific purposes;

(b) Pursuant to a Departmental permit issued for the article and kept on file at the port of departure;

(c) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plant pests and diseases; and,

(d) With a Departmental tag or label bearing the number of the Departmental permit issued for the article securely attached to the outside of the container of the article or securely attached to the article itself if not in container.

[54 FR 3582, Jan. 25, 1989]

§ 318.58-14 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the U.S. Post Office Department, parcel post packages placed in the mails in Puerto Rico or the Virgin Islands of the United States, to determine whether such packages contain products the movement of which is not authorized under this subpart, to examine products so found for insect infestation, and to notify the postmaster in writing of any violation of this subpart in connection therewith.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963. Redesignated at 54 FR 3582, Jan. 25, 1989]

§ 318.58-15 Costs and charges.

Plant Protection and Quarantine shall furnish the services of the inspector during regularly assigned hours of duty at the usual places of duty without cost to the person requesting the services. Plant Protection and Quarantine will not assume responsibility for any costs or charges, other than those indicated in this paragraph, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation incidental to the movement of regulated articles under this subpart.

[54 FR 3583, Jan. 25, 1989]

§ 318.58-16 Cancellation of certificates, transit permits, or limited permits.

Any certificate, transit permit, or limited permit that has been issued or authorized under this subpart may be withdrawn by an inspector orally or in writing if he or she determines that the holder of the certificate, transit permit, or limited permit has not complied with all conditions under the regulations for the use of the document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate, transit permit, or limited permit has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving 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, transit permit, 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.

[54 FR 3583, Jan. 25, 1989, as amended at 58 FR 7964, Feb. 11, 1993]

Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts**§ 318.60 Notice of quarantine.**

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States, by means of sand, soil, or earth about the roots of plants, of immature stages of certain dangerous insects, including *Phyllophaga* spp. (White grubs), *Phytalus* sp., and *Adoretus* sp., and of several species of termites or white ants, new to and not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

(b) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Hawaii, Puerto Rico, and the Virgin Islands of the United States are quarantined to prevent the spread of the aforementioned dangerous insects.

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided*, That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further*, That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further*, That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been (1) freed from sand, soil, and earth, (2) subsequently potted and established in sphagnum moss or other packing material approved under § 319.37-16 that had been stored under shelter and had not been previously used for growing or packing plants, (3) grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to prevent infestation through contact

§ 318.82

7 CFR Ch. III (1-1-09 Edition)

with sand, soil, or earth, and (4) certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c) (1), (2), and (3) of this section.

(d) As used in this section, the term *State, Territory, or District of the United States* means “Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States.”

[24 FR 10777, Dec. 29, 1959, as amended at 66 FR 21054, Apr. 27, 2001]

Subpart—Guam

QUARANTINE

§ 318.82 Notice of quarantine.

(a) Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), Guam is quarantined to prevent the spread of dangerous plant pest and diseases that are new to or not widely prevalent or distributed within and throughout the United States. Such plant pests and diseases include: *Icerya aegyptiaca* (Dougl.), *Xanthomonas citri* (Hasse) Dowson, *Aleurocanthus spiniferus* (Q.), *Phyllocnistis citrella* (Stainton), *Coccus viridis* (Green), *Anomala sulcatula* Burm., *Furcaspis oceanica* Ldgr., *Stephanoderes hampei* (Ferr.), *Pectinophora scutigera* (Holdaway), *Bactrocera dorsalis* Hend., *Bactrocera cucurbitae* (Coq.), *Maruca testulalis* (Geyer), *Lampides boeticus* (L.), *Prays endocarpa* Meyr., *Prodenia litura* (F.), *Euscepes postfasciatus* (Fairm.), *Earias fabia* (Stoll), *Elsinoe batatas* (Saw.) Viegas and Jenkins, *Uredo dioscoreae-alatae* Rac., *Cercospora batatae* Zimm., *Coniothyrium* sp., *Phyllosticta colocasiophila* Weed., *Xanthomonas vasculorum* (Cobb) Dowson, *Rhabdoscelus obscurus* (Boisd.), *Neomaskellia bergeii* (Sign.), *Pyrausta nubilalis* (Hbn.), *Physoderma zeaemaydis* Shaw, *Leptocorisa acuta* (Thunb.), *Adoretus sinicus* Burm., and *Holotrichia mindanaona* Brenske. The regulations in this subpart govern the movement of carriers of these pests.

(b) No plants or parts thereof capable of propagation; seeds; fruits or vegetables; cotton or cotton covers; sugarcane or parts or by-products thereof;

cereals; cut flowers; or packing materials; as such articles are defined in regulations supplemental hereto, shall be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person from Guam into or through any other State, Territory, or District of the United States, in any manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement from Guam of the articles designated herein, make it safe to modify, by making less stringent, the restrictions contained in any regulations in this subpart or in any other subpart in this chapter made applicable thereto by this subpart, he or she shall publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent with respect to such movement, whereupon such modification shall become effective; or he or she may, when the public interests will permit in specific cases, upon notification to the consignor and to the consignee, authorize the interstate movement from Guam of the articles to which such regulations apply, under conditions that are less stringent than those contained in the regulations.

(c) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 66 FR 21054, Apr. 27, 2001; 70 FR 33324, June 7, 2005]

REGULATIONS

§ 318.82-1 Definitions.

Words used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of this subpart, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Plants.* Trees, shrubs, vines, cuttings, grafts, scions, buds, herbaceous plants, bulbs, roots, and other plants and plant parts intended for propagation.

(b) *Seeds.* The mature ovular bodies produced by flowering plants, containing embryos capable of developing into new plants by germination.

(c) *Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state.

(d) *Cotton and cotton covers.* Any parts or products of plants of the genus *Gossypium*, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and secondhand burlap and other fabrics, shredded or otherwise, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops.

(e) *Sugarcane or parts or by-products thereof.* Stems of sugarcane (*Saccharum* spp.), or cuttings or parts thereof, sugarcane leaves, or bagasse or other parts of sugarcane plants, except seeds, not sufficiently processed to remove plant pest danger.

(f) *Cereals.* Seed and other plant parts of all members of the grass family (Gramineae) which yield grain or seed suitable for food, including, but not limited to, wheat, rice, corn and related plants. This definition shall include straw, hulls, chaff and products of the milling process (but excluding flour) of such grains and seeds as well as stalks and all other parts of broomcorn.

(g) *Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state.

(h) *Packing materials.* Any plant or plant product, or soil as defined in § 330.100(t) of this chapter, or other sub-

stance associated with or accompanying any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or any other auxiliary purpose. The word "packing," as used in the expression "packing materials," shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.

(i) *Administrative instructions.* Published documents relating to the enforcement of the regulations in this subpart, issued under the authority of such regulations by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(j) *State, Territory, or District of the United States.* Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States (including Alaska).

(k) *United States.* The States, the District of Columbia, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) *Oceania.* The islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and the Malay Archipelago.

(m) *Far East.* The countries of East and Southeast Asia, including Japan, Korea, Taiwan, the northeastern provinces of Manchuria, the Philippines, Indo-China, and India.

§ 318.82-2 Movement of regulated articles.

(a) Plants, plant products, and other articles designated in § 318.82 may be moved from Guam into or through any other State, Territory, or District of the United States only if, in the case of articles other than soil, they meet the strictest plant quarantine requirements for similar articles offered for entry into such State, Territory, or District from Oceania or the Far East under part 319 or part 321 of this chapter, except requirements for permits, foreign inspection certificates, notices of arrival, and notices of shipment from port of arrival, and in the case of soil if it meets the requirements of § 330.300 of this chapter. If such similar articles cannot be imported into the particular State, Territory, or District

§ 318.82-3

from Oceania or the Far East under either part 319 or part 321 of this chapter, the interstate movement of the articles from Guam into or through such State, Territory or District shall be similarly prohibited. Plants, plant products, and other articles moved from Guam into or through any other State, Territory or District of the United States shall be subject to inspection at the port of first arrival in another part of the United States to determine whether they are free of plant pests and otherwise meet the requirements applicable to them under this subpart, and shall be subject to release, in accordance with § 330.105(a) of this chapter as if they were foreign arrivals. Such articles shall be released only if they meet all applicable requirements under this subpart.

(b) A release may be issued orally by the inspector when inspection of small quantities of regulated articles is involved except that a release issued in specific cases pursuant to the proviso in § 318.82 shall be in writing.

(c) The appropriate provisions of part 352 of this chapter are hereby made applicable to the safeguarding of regulated articles from Guam temporarily in parts of the United States other than Guam, when landing therein is not intended or landing has been refused in accordance with this subpart. The movement of plant pests, means of conveyance, plants, plant products, and other products and articles from Guam into or through any other State, Territory, or District is also regulated by part 330 of this chapter.

§ 318.82-3 Costs.

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

7 CFR Ch. III (1-1-09 Edition)

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Requests To Amend The Regulations

319.5 Requirements for submitting requests to change the regulations in 7 CFR part 319.

Subpart—Foreign Cotton and Covers

QUARANTINE

Sec.

319.8 Notice of quarantine.

319.8a Administrative instructions relating to the entry of cotton and covers into Guam.

REGULATIONS; GENERAL

319.8-1 Definitions.

CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

319.8-2 Permit procedure.

319.8-3 Refusal and cancellation of permits.

319.8-4 Notice of arrival.

319.8-5 Marking of containers.

319.8-6 Cottonseed cake and cottonseed meal.

319.8-7 Processed lint, linters, and waste.

319.8-8 Lint, linters, and waste.

319.8-9 Hull fiber and gin trash.

319.8-10 Covers.

SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

319.8-11 From approved areas of Mexico.

319.8-12 From the West Coast of Mexico.

319.8-13 From Northwest Mexico.

319.8-14 Mexican cotton and covers not otherwise enterable.

MISCELLANEOUS PROVISIONS

319.8-16 Importation into United States of cotton and covers exported therefrom.

319.8-17 Importation for exportation, and importation for transportation and exportation; storage.

319.8-18 Samples.

319.8-19 Cottonseed or seed cotton for experimental or scientific purposes.

319.8-20 Importations by the Department of Agriculture.

319.8-21 Release of cotton and covers after 18 months' storage.

319.8-22 Ports of entry or export.

319.8-23 Treatment.

319.8-24 Collection and disposal of waste.

319.8-25 Costs and charges.

319.8-26 Material refused entry.

Subpart—Sugarcane

319.15 Notice of quarantine.