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4:30 p.m., Monday through Friday, except holidays). These records must include the lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.

(l) *Request for initial certification and inspection of facility.* Persons requesting initial certification of an irradiation treatment facility must submit the request for approval in writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Center for Plant Health Inspection and Technology, 1730 Varsity Drive, Suite 400, Raleigh, NC 27606-5202. The initial request must identify the owner, location, and radiation source of the facility, and the applicant must supply additional information about the facility construction, treatment protocols, and operations upon request by APHIS if APHIS requires additional information to evaluate the request. Before the Administrator determines whether an irradiation facility is eligible for certification, an inspector will make a personal inspection of the facility to determine whether it complies with the standards of this section.

(m) *Denial and withdrawal of certification.* (1) The Administrator will withdraw the certification of any irradiation treatment facility upon written request from the irradiation processor.

(2) The Administrator will deny or withdraw certification of an irradiation treatment facility when any provision of this section is not met. Before withdrawing or denying certification, the Administrator will inform the irradiation processor in writing of the reasons for the proposed action and provide the irradiation processor with an opportunity to respond. The Administrator will give the irradiation processor an opportunity for a hearing regarding any dispute of a material fact, in accordance with rules of practice that will be adopted for the proceeding. However, the Administrator will suspend certification pending final determination in the proceeding if he or she determines that suspension is necessary to prevent the spread of any dangerous insect. The suspension will be effective upon oral or written notification, whichever is earlier, to the irradiation processor. In the event of oral notification, written confirmation will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.

(n) *Department not responsible for damage.* This treatment is approved to assure quarantine security against the plant pests listed in the PPQ Treatment Manual. From the literature available, the articles authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or monitored. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are safe and wholesome for human consumption.

(Approved by the Office of Management and Budget under control numbers 0579-0155, 0579-0215, and 0579-0198)

[75 FR 4241, Jan. 26, 2010, as amended at 75 FR 34336, June 17, 2010]

PART 318—STATE OF HAWAII AND TERRITORIES QUARANTINE NOTICES

Subpart—Regulated Articles From Hawaii and the Territories

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318.60 Notice of quarantine.

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—Regulated Articles From Hawaii and the Territories

SOURCE: 74 FR 2775, Jan 16, 2009, unless otherwise noted.

§ 318.13–1 Notice of quarantine.

(a) Under the authority of section 412 of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the movement in interstate commerce of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to prohibit the interstate movement of cut flowers and fruits and vegetables and plants and portions of plants from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands except as provided in this subpart or as provided in "Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products and "Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts"" in this part.

[74 FR 2775, Jan 16, 2009, as amended at 74 FR 15641, Apr. 7, 2009]

§ 318.13–2 Definitions.

Administrator. The Administrator of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, or any other employee of APHIS to whom authority has been delegated to act in the Administrator's stead.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture.

Approved growing media. Agar or other translucent tissue culture media, buckwheat hulls, clean ocean sand, excelsior, exfoliated vermiculite, ground cork, ground peat, ground rubber, paper, polymer stabilized cellulose, quarry gravel, sawdust, wood shavings, cork shavings, sphagnum moss, tree fern slab (approved only for orchids), and vegetable fiber (free of pulp) including coconut and osmunda, but excluding cotton and sugarcane.

Certification (certified). A type of authorization, issued by an inspector, evidencing freedom from infestation, to allow the movement of certain regulated articles in accordance with the

regulations in this subpart. "Certified" shall be construed accordingly.

Commercial consignment. A lot of fruits or 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 packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Compliance agreement. Any agreement to comply with stipulated conditions as prescribed under § 318.13–3 or § 318.13–4 or § 305.34 of this chapter, executed by any person to facilitate the interstate movement of regulated articles under this subpart.

Consignment. A quantity of plants, plant products, and/or other articles, including fruits or vegetables, being moved from one country to another and covered, when required, by a single certificate or limited permit (a consignment may be composed of one or more commodities or lots).

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

Cut flower. Any cut blooms, fresh foliage, and dried decorative plant material customarily used in the florist trade and not for planting; and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state.

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. A commodity class for fresh parts of plants intended for consumption or processing and not planting.

Inspector. A State agricultural inspector or 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 subpart.

Interstate. From one State into or through any other State; or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

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.

Lot. A number of units of a single commodity, identifiable by its homogeneity of composition and origin, forming all or part of a consignment.

Means of conveyance. 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, Puerto Rico, Guam, the Commonwealth of the Northern Marina Islands, or the U.S. Virgin Islands into or through the continental United States or any other State or territory of the United States (or from or into or through other places as specified in this subpart). "Move" and "movement" shall be construed accordingly.

Packing materials. Any plant or plant product, soil, or other substance associated with or accompanying any commodity or consignment 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," includes the presence of such materials within, in contact with, or accompanying a consignment.

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

Plant debris. Detached leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from approved parts of clean fruits and vegetables, or other commercial articles.

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.

Plant Protection and Quarantine (PPQ). The Plant Protection and Quarantine program of APHIS.

Regulated articles. Fruits or vegetables in the raw or unprocessed state; cut flowers; seeds; and plants or plant products for nonpropagative or propagative use.

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 consignments 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 consigments 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 consignments after transloading in the continental United States or for overland consignments 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.

Soil. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession 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 the continental United States. Transit permits authorize one or more consignments 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. All of the States.

§ 318.13–3 General requirements for all regulated articles.

All regulated articles that are allowed movement under this subpart must be moved in accordance with the following requirements, except as specifically provided otherwise in this subpart.

(a) *Freedom from plant debris.* All regulated articles moved under this subpart must be free from plant debris.

(b) *Certification.* Certification may be issued for the movement of regulated articles under the following conditions:

(1) *Certification on basis of inspection or nature of lot involved.* Regulated articles 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 consignment is of such a nature that no danger of infestation or infection is involved.

(i) Persons intending to move any articles that may be certified must contact the local Plant Protection and Quarantine office as far as possible in advance of the contemplated date of shipment in order to request an inspection.

(ii) Persons intending to move any articles that may be certified must prepare, handle, and safeguard such articles from infestation or reinfestation, and assemble them at such points as the inspector may designate, placing them so that inspection may be readily made.

(2) *Certification on basis of treatment.* (i) Regulated articles for which treatments are approved under part 305 of this chapter may be certified if such treatments have been applied in accordance with part 305 of this chapter

and if the articles were handled after such treatment in accordance with a compliance agreement executed by the applicant for certification or under the supervision of an inspector.

(ii) Regulated articles certified after treatment in accordance with part 305 of this chapter that are taken aboard any ship, vessel, other surface craft, or aircraft must be segregated and protected in a manner as required by the inspector.

(c) *Limited permits.* (1) Limited permits[1] may be issued by an inspector for the movement of certain noncertified regulated articles to restricted destinations.

(2) Limited permits may be issued by an inspector for the movement of regulated articles that would otherwise be prohibited movement under this subpart, if the articles are to be moved in accordance with § 318.13–6.

(3) Except when the regulations specify that an inspector must issue the limited permit, limited permits may be issued by a person operating under a compliance agreement.

(d) *Compliance agreements.* As a condition for the movement of regulated articles for which a compliance agreement is required, the person entering the compliance agreement must agree to the following:

(1) That he or she will use any permit or certification issued to him or her in accordance with the provisions in the permit, the requirements in this subpart, and the compliance agreement;

(2) That he or she will maintain at his or her 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 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

(3) That he or she will allow inspectors to inspect the establishment and its operations.

(e) *Attachment of limited permit or verification of certification.* 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 certification or limited permit shall have the limited permit attached to the outside of the container or bear a U.S. Department of Agriculture stamp or inspection sticker verifying that the consignment has been certified in accordance with paragraph (b) of this section: *Provided*, That if a limited permit or certification is issued for a consignment of more than one container or for bulk products, certification shall be stamped on or the limited permit shall be attached to the accompanying waybill, manifest, or bill of lading.

(f) *Withdrawal of certification, transit permits, limited permits, or compliance agreements.* Any certification, 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 certification, transit permit, limited permit, or compliance agreement has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certification, transit permit, limited permit, or compliance agreement 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

[1] Limited permits can be obtained from each State or territory's local Plant Protection and Quarantine office.

hearing will be adopted by the Administrator.

(g) *Container marking and identity.* Except as provided in § 318.13–6(c), consignments of regulated articles moved in accordance with this subpart must have the following information clearly marked on each container or 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 certification stamp or number of the limited permit authorizing movement, if one was issued.

(h) *Refusal of movement.* An inspector may refuse to allow the interstate movement of a regulated article if the inspector finds that the regulated article is prohibited, is not accompanied by required documentation, is so infested with a plant pest or noxious weed that, in the judgment of the inspector, it cannot be cleaned or treated, or contains soil or other prohibited contaminants.

(i) *Costs and charges.* Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the one requesting such services. APHIS 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.

(j) *APHIS not responsible for damage.* APHIS assumes no responsibility for any damage to regulated articles that results from the application of treatment or other measures required under this subpart (or under part 305 of this chapter) to protect against the dissemination of plant pests within the United States.

(Approved by the Office of Management and Budget under control number 0579–0346)

[74 FR 2775, Jan. 16, 2009, as amended at 75 FR 4249, Jan. 26, 2010]

§ 318.13–4 Approval of certain fruits and vegetables for interstate movement.

(a) *Determination by the Administrator.* The Administrator has determined that the application of one or more of the designated phytosanitary measures cited in paragraph (b) of this section to certain fruits and vegetables mitigates the risk posed by those commodities, and that such articles may be moved interstate subject to one or more of those measures, as provided in paragraphs (c) and (d) of this section. The name and origin of all fruits and vegetables authorized movement under this section, as well as the applicable requirements for their movement, may be found on the Internet at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/hawaii.pdf* or *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/puerto_rico.pdf.* Fruits or vegetables that require phytosanitary measures other than one or more of the designated phytosanitary measures cited in paragraph (b) of this section may only be moved in accordance with applicable requirements in § 318.13–3 and regulated article-specific requirements contained elsewhere in this subpart.

(b) *Designated phytosanitary measures.* (1) The fruits and vegetables are inspected in the State of origin or in the first State of arrival.

(2) The fruits and vegetables originated from a pest-free area in the State of origin and the grower from which the fruit or vegetable originated has entered into a compliance agreement with the Administrator.

(3) The fruits and vegetables are treated in accordance with part 305 of this chapter and the treatment is certified by an inspector.

(4) The fruits and vegetables articles are inspected and certified in the State of origin by an inspector and have been found free of one or more specific quarantine pests identified by risk analysis as likely to follow the pathway.

(5) The fruits and vegetables are moved as commercial consignments only.

(6) The fruits and vegetables may be distributed only within a defined area and the boxes or containers in which

the fruit or vegetables are distributed must be marked to indicate the applicable distribution restrictions.

(c) *Fruits and vegetables authorized for interstate movement under this section*—(1) *Previously approved fruits and vegetables.* Fruits and vegetables that were authorized movement under this subpart either administratively or by specific regulation as of February 17, 2009 and that were subject only to one or more of the designated phytosanitary measures cited in paragraph (b) of this section and the general requirements of §318.13–3 may continue to be moved interstate under the same requirements that applied before February 17, 2009, except as provided in paragraph (d) of this section. The interstate movement conditions for those fruits and vegetables that were authorized movement under this subpart subject to additional measures beyond the designated measures in paragraph (b) of this section can be found in §318.13–16 or one of the commodity-specific sections in this subpart.

(2) *Other fruits and vegetables.* Fruits and vegetables that do not meet the criteria in paragraph (c)(1) of this section may be authorized movement under this section as follows:

(i) *Pest risk analysis.* The risk posed by the particular article from a specified State has been evaluated and publicly communicated as follows:

(A) *Availability of pest risk analysis.* APHIS published in the FEDERAL REGISTER, for a public comment period of 60 days, a notice announcing the availability of a pest risk analysis that evaluated the risks associated with the movement of the particular fruit or vegetable.

(B) *Determination of risk; factors considered.* The Administrator determined, and announced in the notice referred to in the previous paragraph, that, based on the information available, the application of one or more of the designated phytosanitary measures described in paragraph (b) of this section is sufficient to mitigate the risk that plant pests or noxious weeds could be introduced into or disseminated elsewhere within the United States by the fruit or vegetable. In order for the Administrator to make the determination described in this paragraph, he or she must conclude based on the information presented in the risk analysis for the fruit or vegetable that the risk posed by each quarantine pest associated with the fruit or vegetable in the State of origin is mitigated by one or more of the following factors:

(*1*) *Inspection.* A quarantine pest is associated with the fruit or vegetable in the State of origin, but the pest can be easily detected via inspection in the State of origin or in the State of first arrival;

(*2*) *Pest freedom.* No quarantine pests are known to be associated with the fruit or vegetable in the State of origin, or a quarantine pest is associated with the fruit or vegetable in the State of origin but the fruit or vegetable originates from an area that meets the requirements of §318.13–5 for pest freedom;

(*3*) *Effectiveness of treatment.* A quarantine pest is associated with the fruit or vegetable in the State of origin, but the risk posed by the pest can be reduced by applying an approved postharvest treatment to the fruit or vegetable;

(*4*) *Predeparture inspection.* A quarantine pest is associated with the fruit or vegetable in the State of origin, but the fruit or vegetable is subject to predeparture inspection;

(*5*) *Commercial consignments.* A quarantine pest is associated with the fruit or vegetable in the State of origin, but the risk posed by the pest can be reduced by commercial practices.

(*6*) *Limited distribution.* A quarantine pest is associated with the fruit or vegetable in the State of origin, but the risk posed by the pest can be reduced by limiting distribution of the fruit or vegetable and labeling boxes containing the fruit or vegetable with those distribution instructions.

(ii) *Administrator's decision.* The Administrator will announce his or her decision in a subsequent FEDERAL REGISTER notice. If appropriate, APHIS would begin allowing the interstate movement of the fruits or vegetables subject to requirements specified in the notice because:

(A) No comments were received on the pest risk analysis;

(B) The comments on the pest risk analysis revealed that no changes to

the pest risk analysis were necessary; or

(C) Changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

(d) *Amendment of interstate movement requirements.* If, after February 17, 2009, the Administrator determines that one or more of the designated phytosanitary measures is not sufficient to mitigate the risk posed by any fruit or vegetable authorized interstate movement under this section, APHIS will prohibit or further restrict the interstate movement of the fruit or vegetable pending resolution of the situation. If APHIS concludes that a permanent change to the interstate movement requirements of a particular fruit or vegetable is necessary, APHIS will also publish a notice in the FEDERAL REGISTER advising the public of its finding. The notice will specify the amended interstate movement requirements, provide an effective date for the change, and invite public comment on the subject.

(Approved by the Office of Management and Budget under control number 0579–0346)

§ 318.13–5 Pest-free areas.

Certain fruits or vegetables may be moved interstate provided that the fruits or vegetables originate from an area that is free of a specific pest or pests. In some cases, fruits or vegetables may only be moved interstate if the area of origin is free of all plant pests that attack the fruits or vegetables. In other cases, fruits or vegetables may be moved interstate if the area of origin is free of one or more plant pests that attack the fruit or vegetable and the risk posed by the remaining plant pests that attack the fruit or vegetable is mitigated by other specific phytosanitary measures contained in the regulations in this subpart.

(a) *Application of standards for pest-free areas.* APHIS will make a determination of an area's pest-free status based on information provided by the State. The information used to make this determination will include trapping and surveillance data, survey protocols, and protocols for actions to be performed upon detection of a pest.

(b) *Survey protocols.* APHIS must approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

(c) *Determination of pest freedom.* (1) For an area to be considered free of a specified pest for the purposes of this subpart, the Administrator must determine, and announce in a notice published in the FEDERAL REGISTER for a public comment period of 60 days, that the area meets the criteria of paragraphs (a) and (b) of this section.

(2) The Administrator will announce his or her decision in a subsequent FEDERAL REGISTER notice. If appropriate, APHIS will allow movement of the regulated article from a pest-free area because:

(i) No comments were received on the notice or

(ii) The comments on the notice did not affect the overall conclusions of the notice and the Administrator's determination of risk.

(d) *Decertification of pest-free areas; reinstatement.* If a pest is detected in an area that is designated as free of that pest, APHIS will publish in the FEDERAL REGISTER a notice announcing that the pest-free status of the area in question has been withdrawn and that interstate movement of host crops for the pest in question is subject to application of an approved treatment for the pest. If a treatment for the pest is not available, interstate movement of the host crops would be prohibited. In order for a decertified pest-free area to be reinstated, it would have to meet the criteria of paragraphs (a) through (c) of this section.

(e) *General requirements for the interstate movement of regulated articles from pest-free areas*—(1) *Labeling.* Each box of fruits or vegetables that is moved interstate from a pest-free area under this subpart must be clearly labeled with:

(i) The name of the orchard or grove of origin, or the name of the grower; and

(ii) The name of the municipality and State or territory in which the fruits or vegetables were produced; and

(iii) The type and amount of fruits or vegetables the box contains.

(2) *Compliance agreement.* Persons wishing to move fruits or vegetables from a pest-free area in Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands must enter into a compliance agreement with APHIS in accordance with § 318.13–3(d).

(3) *Safeguarding.* If fruits or vegetables are moved from a pest-free area into or through an area that is not free of that pest, the fruits or vegetables must be safeguarded during the time they are present in a non-pest-free area by being covered with insect-proof mesh screens or plastic tarpaulins, including while in transit to the packinghouse and while awaiting packaging. If fruits or vegetables are moved through an area that is not free of that pest during transit to a port, they must be packed in insect-proof cartons or containers or be covered by insect-proof mesh or plastic tarpaulins during transit to the port and subsequent movement into or through the United States. These safeguards described in this section must remain intact until the fruits or vegetables reach their final destination.

(Approved by the Office of Management and Budget under control number 0579–0346)

§ 318.13–6 Transit of fruits and vegetables from Hawaii or the territories into or through the continental United States.

Fruits and vegetables from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands that are otherwise prohibited interstate movement into 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.

(a) *Transit permit.* (1) A transit permit is required for the arrival, unloading, and movement through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved through the continental United States from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands. Application for a transit permit may be made in writing or with PPQ Form 586.[2] The transit permit application must include the following information:

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

(ii) The means of conveyance to be used to transport the fruit or vegetable 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 or vegetables are to be transloaded;

(vi) The means of conveyance to be used for transporting the fruits or 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 continental United States, the name and address in the continental 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

[2] PPQ Form 586 can be obtained from PPQ Permit Services or at *http://www.aphis.usda.gov/plant_health/permits/transit.shtml* . Applications for transit permits should be submitted to USDA, APHIS, PPQ Permit Services, 4700 River Road Unit 136, Riverdale, MD 20737 or through e-permits *http://www.aphis.usda.gov/permits/learn_epermits.shtml*.

air consignments, 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 §318.13–3(f), unless the transit permit has been reinstated upon appeal.

(b) *Limited permit.* Fruits or vegetables shipped from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands 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 consignment is authorized to stop or where overland consignments 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 or vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English common names are acceptable.) The fruits or 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 consignment of fruits or 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 regulated articles for transit through the continental United States under this section must be conspicuously marked, prior to the locking and sealing of the container in the State of origin, with a printed label that includes a description of the specific type and quantity of the fruits or vegetables (only scientific or English common names are acceptable), the transit permit number under which the regulated articles are to be shipped, and, in English, the State in which they were grown and the statement "Distribution in the United States is Prohibited."

(d) *Handling of fruits and vegetables.* Fruits or vegetables shipped through the United States from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands in accordance with this section may not be commingled in the same sealed container with fruits or vegetables that are intended for entry and distribution in the United States. The fruits or 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 or vegetables exit the 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 or 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, TX, as an authorized stop for air cargo, or as a transloading location for consignments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth, TX, into the designated corridor by the shortest route. Movement through the United States must begin and end at locations staffed by APHIS inspectors.

(f) *Movement of regulated articles.* Transportation through the continental United States shall be by the most direct route to the final destination of the consignment 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 consignment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the consignment 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 consignment 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 United States.

(h) *Consignments by sea.* Except as authorized by this paragraph, consignments arriving in the United States by sea from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands 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 United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the consignment 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) *Consignments by air.* (1) Consignments arriving in the United States by air from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands may be transloaded only once in the United States. Transloading of air consignments must be carried out in the presence of an APHIS inspector. Consignments 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 consignment 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 consignment 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 United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air consignments 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, consignments 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 consignment arriving in the United States into another aircraft, consignments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the consignment 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 consignment 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 United States, and provided that APHIS inspectors are available to provide supervision.

(j) *Duration and location of storage.* Any storage in the United States of fruits or 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 or 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 consignments, the temperature in the sealed containers containing fruits and vegetables moved under this section must be 60 °F or lower from the time the regulated articles leave Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or any other territory or possession of the United States until they exit the 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 United States under this section must ensure that the sealed container is carrying only those fruits or 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 or 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 or vegetables through the United States under this section does not imply that such fruits or vegetables are enterable into the destination country. Consignments returned to the United States from the destination country shall be subject to all applicable regulations, including "Subpart—Fruits and Vegetables" of part 319 and "Plant Quarantine Safeguard Regulations" of 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 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 0579–0346)

§ 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, or cut flowers subject to the quarantine and regulations in this subpart, when loose and free of packing materials, may be taken

aboard any ship, vessel, or other surface craft by passengers or members of the crew without inspection and certification in the State of origin. However, if such articles are not eligible for certification under § 318.13–3, they must be entirely consumed or disposed of before arrival within the territorial waters of the continental United States, Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands.

(b) *As ships' stores or decorations.* Fruits, vegetables, or cut flowers subject to the quarantine and regulations in this subpart may be taken aboard a ship, vessel, or other surface craft in Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands 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 ship, vessel, or other surface craft before arrival within the territorial waters of the continental United States, Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or any other territory or possession 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 paragraphs (b) and (c) of § 352.10 of this chapter.

§ 318.13–8 Articles and persons subject to inspection.

In addition to the inspection requirements in §§ 318.13–9 and 318.13–10, persons, means of conveyance (including ships, other oceangoing craft, and aircraft), baggage, cargo, and any other articles, that are destined for movement, are moving, or have been moved from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to a destination elsewhere in the United States are subject to agricultural inspection at the port of departure, the port of arrival, 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.

§ 318.13–9 Inspection and disinfection of means of conveyance.

(a) *Inspection of aircraft prior to departure.* No person shall move any aircraft from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other State 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, Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to Guam shall contact an inspector and offer the inspector the opportunity to inspect the aircraft upon the aircraft's arrival in Guam.

(c) *Inspection of ships upon arrival.* Any person who has moved a ship or other oceangoing craft from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other State shall contact an inspector and offer the inspector the opportunity to inspect the ship or other oceangoing craft upon its arrival.

(d) *Disinfection of means of conveyance.* If an inspector 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 and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo.

§ 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, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other State 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 U.S. Department of Agriculture 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, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other State, 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 U.S. Department of Agriculture 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, Puerto Rico, or the U.S. Virgin Islands 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, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other State unless the baggage bears a U.S. Department of Agriculture stamp, inspection sticker, or other indication applied by an inspector representing that the baggage has been inspected and certified.

(e) *Offer for inspection by persons moving by ship.* No person who has moved on any ship or other oceangoing craft from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to any other territory, State, or District of the United States, shall remove or attempt to remove any baggage or other personal effects from the designated inspection area as provided in paragraph (h) of this section on or off the ship or other oceangoing 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, Puerto Rico, Guam, or the U.S. Virgin Islands to any other State unless the cargo has been offered for inspection, passed by an inspector, and bears a U.S. Department of Agriculture stamp or inspection sticker, or unless a limited permit is attached to the cargo as specified in §318.13–3(e).

(2) Cargo designated may be loaded without a U.S. Department of Agriculture stamp or inspection sticker 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 oceangoing craft or as air cargo;

(ii) The carrier has on file documentary evidence that a valid limited permit was issued for the movement or that the cargo was certified; 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 consignment.

(3) Cargo moved in accordance with §318.13–6(b) 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 consignment.

(g) R*emoval of certain cargoes in Guam.* No person shall remove or attempt to remove from a designated inspection area as provided in paragraph (h) of this section, on or off the means of conveyance, any cargo moved from Hawaii, Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands 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 and cargo inspection.* Baggage and cargo inspection will not be performed until the person in charge or possession of the ship, other oceangoing 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.

§318.13–11 Posting of warning notice and distribution of baggage declarations.

(a) Before any aircraft or any ship, vessel, or other surface craft moving to Guam, the Commonwealth of Northern Mariana Islands, or American Samoa from Hawaii or any other territory or possession of the United States arrives

in Guam, the Commonwealth of Northern Mariana Islands, or American Samoa, a baggage declaration, 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, must be distributed to each adult passenger. 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 aircraft, ship, vessel, or other surface craft 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, Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, or the U.S. Virgin Islands from which ships, vessels, other surface craft, or aircraft leave for ports in any other State 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. Every master, or other responsible officer of any ship, vessel, other surface craft, or aircraft leaving Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands destined to a port in any other State, 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.

§318.13–12 Movement by the U.S. Department of Agriculture.

Notwithstanding any other restrictions of this subpart, regulated articles may be moved if they are moved by the U.S. Department of Agriculture for experimental or scientific purposes and are moved under conditions found by the Administrator to be adequate to prevent the spread of plant pests and diseases.

§318.13–13 Movement of frozen fruits and vegetables.

Frozen fruits and vegetables may be certified for movement from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands, into or through any other territory, State, or District of the United States in accordance with §318.13–3. Such fruits and vegetables must be held at a temperature not higher than 20 °F during shipping and upon arrival in the continental United States, and in accordance with the requirements for the interstate movement of frozen fruits and vegetables in part 305 of this chapter. Paragraph (b) of §305.17 lists frozen fruits and vegetables for which quick freezing is not an authorized treatment.

§318.13–14 Movement of processed fruits, vegetables, and other products.

(a) Fruits, vegetables, and other products that are processed sufficiently as to preclude the survival of any live pests can be moved interstate from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands. Those processed products which are approved for interstate movement from those States can be found in the fruits and vegetables manuals for those States. These manuals are available on the Internet at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/hawaii.pdf* and *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/puerto_rico.pdf*.

(b) Consignments of processed fruits, vegetables, or other products that have not been processed sufficiently as to be incapable of harboring fruit flies are subject to the interstate movement requirements which apply to the fruit, vegetable, or other product in its unprocessed state.

§318.13–15 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the U.S. Postal Service, parcel post packages placed in the mails in Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands to determine whether such packages contain products whose movement is not authorized under this subpart, to examine any such products that are found for insect infestation, and to notify the postmaster in writing

of any violations of this subpart that are found as a result of an inspection.

§ 318.13–16 Regulated articles allowed interstate movement subject to specified conditions.

(a) The following regulated articles may be moved interstate in accordance with § 318.13–3 and any additional requirements specified in paragraph (b) of this section.

State, territory, or district of origin	Common name	Botanical name	Plant part(s)	Additional requirements
Hawaii	Bananas [1]	*Musa* spp	Fruit	(b)(1)(i), (b)(2)(ii)
	Litchi	*Litchi chinensis*	Fruit	(b)(1)(ii), (b)(3)(ii)
	Longan	*Dimocarpus longan*	Fruit	(b)(1)(ii), (b)(3)(ii)
	Pot marigold, johnny-jump-ups, pansies, and violets.	*Calendula* spp	Flower	(b)(2)(iii)
	Pineapple [2]	*Ananas comosus*	Fruit	(b)(2)(i)
Puerto Rico	Cactus	*Cactaceae*	Whole plant	(b)(2)(iv), (b)(3)(ii)
	Okra	*Abelmoschus escuelentus*	Fruit	(b)(3)(i)
	Pot marigold, johnny-jump-ups, pansies, and violets.	*Calendula* spp	Flower	(b)(2)(iii)
U.S. Virgin Islands	Cactus	*Cactaceae*	Whole plant	(b)(2)(iv), (b)(3)(ii)
	Okra	*Abelmoschus escuelentus*	Fruit	(b)(3)(i)
	Pot marigold, johnny-jump-ups, pansies, and violets.	*Calendula* spp	Flower	(b)(2)(iii)

[1] Fruit may also be moved interstate in accordance with § 318.13–17.
[2] Fruit may also be moved interstate with treatment in accordance with part 305 of this chapter.

(b) Additional restrictions for applicable regulated articles as specified in paragraph (a) of this section.

(1) *Restricted movement and distribution.*

(i) Allowed movement into Alaska. Cartons must be labeled, "For distribution in Alaska only."

(ii) May not be moved interstate into Florida. Cartons must be stamped "Not for movement into or distribution in FL."

(2) *Plant types.*

(i) Smooth cayenne variety and hybrids with 50 percent or more smooth cayenne parentage only.

(ii) Green bananas of the cultivars "Williams," "Valery," "Grand Nain," and standard and dwarf "Brazilian" only.

(iii) Inflorescences only with no stems or leaves attached.

(iv) Bare-rooted plants or plants rooted in approved growing media only.

(3) *Other conditions.*

(i) If destined to States other than Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, or Virginia, the consignment must be treated in accordance with part 305 of this chapter unless the consignment is for immediate consumption or processing.

(ii) Must be treated in accordance with part 305 of this chapter.

[74 FR 2775, Jan. 16, 2009, as amended at 75 FR 4249, Jan. 26, 2010]

§ 318.13–17 Regulated articles from Guam.

(a)(1) Regulated articles, other than soil, may be moved from Guam into or through any other State only if they meet the strictest plant quarantine requirements under part 319 of this chapter for similar articles offered for entry into such States from the countries of East and Southeast Asia, including Cambodia, India, Japan, Korea, Laos, the northeastern provinces of Manchuria, the Philippines, Taiwan, and Vietnam, or the islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and

the Malay Archipelago, except requirements for permits, phytosanitary certificates, notices of arrival, and notices of consignment from port of arrival. Soil must meet the requirements of §330.300 of this chapter.

(2) Regulated articles that do not meet the requirements of paragraph (a)(1) of this section are prohibited movement from Guam into or through any other State.

(b)(1) Regulated articles moved from Guam into or through any other State 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.

(2) A release shall be issued in writing unless the inspection involves small quantities of regulated articles, in which case a release may be issued orally by the inspector.

§§318.13–18–318.13–20 [Reserved]

§318.13–21 Avocados from Hawaii to Alaska.

Avocados may be moved interstate from Hawaii to Alaska without treatment 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 consignment must be identified in accordance with the requirements of §318.13–3.

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

(c) *Packing requirements.* The avocados must have been sealed in the packinghouse 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, OR; Seattle, WA; 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 State other than Alaska. If the avocados arrive at either Portland, OR, or Seattle, WA, they may be transloaded only under the following conditions:

(1) *Consignments 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) *Consignments 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 consignment 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)(1) and (e)(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.* Consignments of avocados must be accompanied by a limited permit issued by an APHIS inspector in accordance with §318.13–3(c). The limited permit will be issued only

if the inspector examines the consignment and determines that the consignment has been prepared in compliance with the provisions of this section.

§ 318.13–22 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 certification in accordance with § 318.13–3 if the bananas meet the following conditions:[3]

(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) To safeguard from fruit fly infestation, the bananas must be covered with insect-proof packaging, such as insect-proof mesh screens or plastic tarpaulins, 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 in accordance with part 305 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 in accordance with part 305 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) Untreated bananas from Hawaii may be moved interstate for treatment on the mainland United States under a limited permit issued by an inspector. To be eligible for a limited permit under this paragraph, bananas from Hawaii must be inspected prior to interstate movement from Hawaii and found free of banana moth if they are to be treated in accordance with the requirements of paragraph (b)(1) of this section or inspected and found free of banana moth and green scale if they are to be treated in accordance with the requirements of paragraph (b)(2) of this section.

[74 FR 2775, Jan. 16, 2009, as amended at 75 FR 4249, Jan. 26, 2010]

§ 318.13–23 Cut flowers from Hawaii.

(a) Except for cut blooms and leis of mauna loa and jade vine and except for cut blooms of gardenia not grown in accordance with paragraph (b) of this section, cut flowers 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.

(b) Cut blooms of gardenia may be moved interstate from Hawaii if grown and inspected in accordance with the provisions of this section.[4]

[3] Bananas from Hawaii may also be moved to Alaska under § 318.13–16.

[4] Cut blooms of gardenia are also eligible for interstate movement with treatment in accordance with part 305 of this chapter.

(1) 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.

(2) 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*, mango, orchids, and annona.

(3) An inspector must visually inspect the cut blooms of gardenias in each consignment prior to interstate movement from Hawaii to the mainland United States. If the inspector does not detect green scale in the consignment, the inspector will certify the consignment in accordance with §318.13–3(b). If the inspector finds green scale in a consignment, that consignment will be ineligible for interstate movement from Hawaii.

(Approved by the Office of Management and Budget under control number 0579–0198)

§318.13–24 Sweet potatoes from Puerto Rico.

Sweet potatoes from Puerto Rico may be moved interstate to Atlantic Coast ports north of and including Baltimore, MD, under limited permit if treated in accordance with part 305 of this chapter or if the following conditions are met:

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

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

(2) Before planting in such treated fields, the sweet potato draws and vine cuttings must have been dipped in an APHIS-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 Puerto Rico must certify that the sweet potatoes have been washed.

(c) The sweet potatoes must be graded by inspectors 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 sweet potatoes must be inspected by an inspector and found to be free of the sweet potato scarabee (*Euscepes postfasciatus Fairm.*).

§318.13-25 Sweetpotatoes from Hawaii.

Sweetpotatoes may be moved interstate from Hawaii in accordance with this section only if the sweetpotatoes meet the conditions in paragraph (a) or paragraph (b) of this section or if the sweetpotatoes are fumigated with methyl bromide in accordance with part 305 of this chapter.

(a) *Vapor heat treatment and inspection.* (1) The sweetpotatoes must be treated with vapor heat in accordance with part 305 of this chapter.

(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 the pests of concern 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 the pests of concern.[5]

(B) The pallet-load of cartons must be secured 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.

(C) Packaging must be labeled in a manner that allows an inspector to determine 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.* Certification shall be issued by an inspector for the movement of sweetpotatoes from Hawaii that have been treated in accordance with part 305 of this chapter and handled in Hawaii in accordance with this section.

(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.

[5] If 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 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.

(b) *Irradiation treatment and inspection.* (1) The sweetpotatoes must be treated with irradiation in accordance with part 305 of this chapter.

(2) Sweetpotatoes that are not treated with an irradiation dose approved to neutralize the ginger weevil (*Elytrotreinus subtruncatus*) must be sampled, cut, and inspected and found to be free of the ginger weevil by an inspector in Hawaii. 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)(i) To be certified for interstate movement under this paragraph, sweetpotato from Hawaii must be inspected in Hawaii and found free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*) and the Kona coffee-root knot nematode (*Meloidogyne konaensis*) by an inspector before undergoing irradiation treatment in Hawaii.

(ii) To be eligible for a limited permit under this section, untreated sweetpotato from Hawaii must be inspected in Hawaii and found free of the gray pineapple mealybug (*Dysmicoccus neobrevipes*) and the Kona coffee-root knot nematode (*Meloidogyne konaensis*) by an inspector.

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

[75 FR 4250, Jan. 26, 2010]

§ 318.13-26 Breadfruit, jackfruit, fresh pods of cowpea, dragon fruit, mangosteen, and moringa pods from Hawaii.

(a) *Breadfruit and jackfruit.* (1) To be eligible for interstate movement, breadfruit and jackfruit from Hawaii must be treated with irradiation in accordance with part 305 of this chapter.

(2) To be certified for interstate movement, breadfruit and jackfruit from Hawaii must be inspected in Hawaii and found free of spiraling whitefly (*Aleurodicus dispersus*), inornate scale (*Aonidiella inornata*), red wax scale (*Ceroplastes rubens*), green scale (*Coccus viridis*), gray pineapple mealybug (*Dysmicoccus neobrevipes*), pink hibiscus mealybug (*Maconellicoccus hirsutus*), spherical

mealybug (*Nipaecoccus viridis*), citrus mealybug (*Pseudococcus cryptus*), melon thrips (*Thrips palmi*), and signs of thrip damage before undergoing irradiation treatment in Hawaii at a dose approved to neutralize fruit flies. Fruit treated for fruit flies also must either receive a post-harvest dip in accordance with part 305 of this chapter to treat external feeders or originate from an orchard or growing area that was previously treated with a broad-spectrum insecticide during the growing season and a pre-harvest inspection of the orchard or growing area found the fruit free of any surface pests as prescribed in a compliance agreement. Post-treatment inspection in Hawaii is not required if the fruit undergoes irradiation treatment at a dose approved to neutralize all plant pests of the class *Insecta*, except pupae and adults of the order Lepidoptera. Regardless of irradiation dose, the fruit must be free of stems and leaves and must originate from an orchard that was previously treated with a fungicide appropriate for the fungus *Phytophthora tropicalis* during the growing season and the fruit must be inspected prior to harvest and found free of the fungus or, after irradiation treatment, must receive a post-harvest fungicidal dip appropriate for *Phytophthora tropicalis*.

(3) To be eligible for a limited permit, breadfruit and jackfruit from Hawaii must be free of stems and leaves and must originate from an orchard that was previously treated with a fungicide appropriate for the fungus *Phytophthora tropicalis* during the growing season and the fruit must be inspected prior to harvest and found free of the fungus or, after irradiation treatment, must receive a post-harvest fungicidal dip appropriate for *Phytophthora tropicalis*.

(b) *Fresh pods of cowpea.* (1) To be eligible for interstate movement, fresh pods of cowpea and its relatives from Hawaii must be treated with irradiation in accordance with part 305 of this chapter.

(2) To be certified for interstate movement, fresh pods of cowpea and its relatives from Hawaii must be inspected in Hawaii and found free of the cassava red mite (*Oligonychus biharensis*) and adults and pupae of the order Lepidoptera before undergoing irradiation treatment. The pods must be free of stems and leaves.

(3) To be eligible for a limited permit, fresh pods of cowpea and its relatives from Hawaii must be free of stems and leaves and must be inspected in Hawaii and found free of the cassava red mite (*Oligonychus biharensis*) and adults and pupae of the order Lepidoptera.

(c) *Dragon fruit.* To be certified for interstate movement, dragon fruit from Hawaii presented for inspection must have the sepals removed and must be inspected in Hawaii and found free of gray pineapple mealybug (*Dysmicoccus neobrevipes*), pink hibiscus mealybug (*Maconellicoccus hirsutus*), and citrus mealybug (*Pseudococcus cryptus*) before undergoing irradiation treatment in Hawaii at a dose approved to neutralize fruit flies. Fruit treated for fruit flies also must either receive a post-harvest dip in accordance with part 305 of this chapter to treat external feeders or originate from an orchard or growing area that was previously treated with a broad-spectrum insecticide during the growing season and a pre-harvest inspection of the orchard or growing area found the fruit free of any surface pests as prescribed in a compliance agreement. Post-treatment inspection in Hawaii is not required if the fruit undergoes irradiation treatment at a dose approved to neutralize all plant pests of the class *Insecta*, except pupae and adults of the order Lepidoptera. Regardless of irradiation dose, the fruit must be free of stems and leaves.

(d) *Mangosteen.* To be certified for interstate movement, mangosteen from Hawaii must have the sepals removed and must be inspected in Hawaii and found free of gray pineapple mealybug (*Dysmicoccus neobrevipes*), pink hibiscus mealybug (*Maconellicoccus hirsutus*), citrus mealybug (*Pseudococcus cryptus*), and *Thrips florum* before undergoing irradiation treatment in Hawaii at a dose approved to neutralize fruit flies. Fruit treated for fruit flies also must either receive a post-harvest dip in accordance with part 305 of this chapter to treat external feeders or originate from an orchard or growing area that was

previously treated with a broad-spectrum insecticide during the growing season and a pre-harvest inspection of the orchard or growing area found the fruit free of any surface pests as prescribed in a compliance agreement. Post-treatment inspection in Hawaii is not required if the fruit undergoes irradiation treatment at a dose approved to neutralize all plant pests of the class *Insecta*, except pupae and adults of the order Lepidoptera. Regardless of irradiation dose, the fruit must be free of stems and leaves.

(e) *Melon*. To be certified for interstate movement, melon from Hawaii must be inspected in Hawaii and found free of spiraling whitefly (*Aleurodicus dispersus*) before undergoing irradiation treatment in Hawaii at a dose approved to neutralize fruit flies. Fruit treated for fruit flies also must either receive a post-harvest dip in accordance with part 305 of this chapter to treat external feeders or originate from an orchard or growing area that was previously treated with a broad-spectrum insecticide during the growing season and a pre-harvest inspection of the orchard or growing area found the fruit free of any surface pests as prescribed in a compliance agreement. Post-treatment inspection in Hawaii is not required if the fruit undergoes irradiation treatment at a dose approved to neutralize all plant pests of the class *Insecta*, except pupae and adults of the order Lepidoptera. Regardless of irradiation dose, melons must be washed to remove dirt and must be free of stems and leaves.

(f) *Moringa pods*. To be certified for interstate movement, moringa pods from Hawaii must be inspected in Hawaii and found free of spiraling whitefly (*Aleurodicus dispersus*), inornate scale (*Aonidiella inornata*), green scale (*Coccus viridis*), and citrus mealybug (*Pseudococcus cryptus*) before undergoing irradiation treatment in Hawaii at a dose approved to neutralize fruit flies. Fruit treated for fruit flies also must either receive a post-harvest dip in accordance with part 305 of this chapter to treat external feeders or originate from an orchard or growing area that was previously treated with a broad-spectrum insecticide during the growing season and a pre-harvest inspection of the orchard or growing area found the fruit free of any surface pests as prescribed in a compliance agreement. Post-treatment inspection in Hawaii is not required if the fruit undergoes irradiation treatment at a dose approved to neutralize all plant pests of the class *Insecta*, except pupae and adults of the order Lepidoptera.

[75 FR 4250, Jan. 26, 2010]

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 unginned 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 in accordance with part 305 of this chapter 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.

[24 FR 10777, Dec. 29, 1959, as amended at 75 FR 4251, Jan. 26, 2010]

§ 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—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 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]

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Preemption

319.1 Preemption of State and local laws.

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.