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between San Luis Mesa and the Colorado River.

Permit. A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart.

Person. Any individual, firm, corporation, company, society, or association, or any organized group of any of the foregoing.

Pink bollworm regulated area; generally infested pink bollworm regulated area. The pink bollworm regulated area consists of those States or parts thereof designated as regulated area in Administrative Instructions issued under § 301.52–2 of this chapter. The generally infested pink bollworm regulated area is that part of the regulated area designated as generally infested in the said Administrative Instructions.

Plant Protection and Quarantine Programs. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the United States Department of Agriculture.

Root crop. The underground crop portions of any plants.

Samples. Samples of lint, linters, waste, cottonseed cake, and cottonseed meal, of the amount and character usually required for trade purposes.

Seed cotton. Cotton as it comes from the field.

Treatment. Procedures administratively approved by the Deputy Administrator of the Plant Protection and Quarantine Programs for destroying infestations or infections of insect pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

Uncompressed. Baled or packaged to a density not exceeding approximately 20 pounds per cubic foot.

United States. Any of the States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands of the United States.

Utilization. Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.[1]

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 thread waste; and waste products derived from the milling of cottonseed. Gin trash is not within the definition of waste.

West Coast of Mexico. The State of Sinaloa, the State of Sonora (except that part of the Imperial Valley lying between San Luis Mesa and the Colorado River), and the Southern Territory of Baja California, in Mexico.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 66 FR 21055, Apr. 27, 2001]

Conditions of Importation and Entry of Cotton and Covers

§ 319.8–2 Permit procedure.

(a) Except as otherwise provided for in §§ 319.8–10 and 319.8–18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§ 319.8–6 through 319.8–20. Persons desiring to import cotton or covers under §§ 319.8–6 through 319.8–20 shall, in advance of departure of such material from a foreign port, submit to the Plant Protection and Quarantine Programs an application[2] stating the name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import. Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

[1] A list of approved mills and plants may be obtained from the Plant Protection and Quarantine Programs, Room 710, U.S. Appraisers Stores, 408 Atlantic Ave., Boston, Mass. 02210.

[2] Applications for permits should be made to Plant Importations Branch, Plant Protection and Quarantine Programs, 209 River Street, Hoboken, N.J. 07030.

(b) Applications to import lint, linters, or waste at a port[3] other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

(c) Applications for permits may be made orally or on forms provided for the purpose by the Plant Protection and Quarantine Programs, or may be made by a letter or telegram containing all the information required by this section.

(d) Upon receipt and approval of such application by the Plant Protection and Quarantine Programs, an individual or continuing permit will be issued authorizing the importation and specifying the port of entry and the conditions of entry. A copy of the permit will be supplied to the importer.

(e) Upon receipt of an application to import lint, linters, waste, or covers, without treatment, for utilization under agreement as defined in § 319.8–8(a)(2), an investigation will be made by an inspector to determine that the receiving mill or plant is satisfactorily located geographically, is equipped with all necessary safeguards, and is apparently in a position to fulfill all precautionary conditions to which it may agree. Upon determination by the inspector that these qualifications are fulfilled, the owner or operator of the mill or plant may sign an agreement specifying that the required precautionary conditions will be maintained. Such signed agreement will be a necessary requisite to the release at the port of entry of any imported lint, linters, waste, or covers for forwarding to and utilization at such mill or plant in lieu of vacuum fumigation or other treatment otherwise required by this subpart. Permits for the importation of such materials will be issued in accordance with paragraph (a) of this section.

(f) Permits for importation of any cotton or covers are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit. Permits may also be cancelled or may be refused as provided in § 319.8–3, or entry denied as provided in §§ 319.8–11, 319.8–12, and § 319.8–13.

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the importer, pending issuance of a permit, for a period not exceeding 20 days.

(h) Pending development of adequate treating facilities in Guam, any cotton or covers that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a U.S. port of arrival where such treating facilities are available.

(Approved by the Office of Management and Budget under control number 0579–0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8–3 Refusal and cancellation of permits.

(a) Permits for entry from the West Coast of Mexico, as authorized in § 319.8–12 of lint, linters, waste, cottonseed, and cottonseed hulls may be refused and existing permits cancelled by the Deputy Administrator if he or she has determined that the pink bollworm is present in the West Coast of Mexico or in Northwest Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

(b) Permits for entry from Northwest Mexico as authorized in § 319.8–13 of lint, linters, waste, cottonseed, cottonseed hulls, and covers that have been used for cotton, may be refused and existing permits cancelled by the Deputy Administrator if he or she has determined that the pink bollworm is present in Northwest Mexico or in the West Coast of Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971; 70 FR 33324, June 7, 2005]

[3] Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.8–4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Protection and Quarantine Programs, a notice of such arrival, on a form provided for that purpose (Form PQ–368) and shall give such information as is called for by that form.

(Approved by the Office of Management and Budget under control number 0579–0049)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8–5 Marking of containers.

Every bale or other container of cotton lint, linters, waste, or covers imported or offered for entry shall be plainly marked or tagged with a bale number or other mark to distinguish it from other bales or containers of similar material. Bales of lint, linters, and waste from approved areas of Mexico, the West Coast of Mexico, or Northwest Mexico shall be tagged or otherwise marked to show the gin or mill of origin unless they are immediately exported.

(Approved by the Office of Management and Budget under control number 0579–0049)

[27 FR 5389, June 7, 1962, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8–6 Cottonseed cake and cottonseed meal.

Entry of cottonseed cake and cottonseed meal will be authorized through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination. If found to be free of contamination, importations of such cottonseed cake and cottonseed meal will be released from further plant quarantine entry restrictions. If found to be contaminated such importations will be refused entry or subjected as a condition of entry to such safeguards as the inspector may prescribe, according to a method selected by the inspector from administratively authorized procedures known to be effective under the conditions under which the safeguards are applied.

[24 FR 10788, Dec. 29, 1959, as amended at 70 FR 33324, June 7, 2005]

§ 319.8–7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint, linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

§ 319.8–8 Lint, linters, and waste.

(a) *Compressed to high density.* (1)(i) Entry of lint, linters, and waste, compressed to high density, will be authorized subject to vacuum fumigation by approved methods at any port where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste, arriving at a northern port where there are no approved fumigation facilities may be entered for transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Such lint, linters, and waste compressed to high density arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond via an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector to (*a*) any port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (*b*) to an approved mill or plant for utilization.

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs

to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

(i) The lint, linters, and waste so entered will be processed or manufactured at the mill or plant and until so used will be retained thereat, unless written authority is granted by the Plant Protection and Quarantine Programs to move the material to another mill or plant;

(ii) Sanitary measures satisfactory to the Plant Protection and Quarantine Programs will be taken with respect to the collection and disposal of any waste, residues, and covers, including the collection and disposal of refuse from railroad cars, trucks, or other carriers used in transporting the material to the mill or plant;

(iii) Inspectors of the Plant Protection and Quarantine Programs will have access to the mill or plant at any reasonable time to observe the methods of handling the material, the disposal of refuse, residues, waste, and covers, and otherwise to check compliance with the terms of the agreement;

(iv) Such reports of the receipt and utilization of the material, and disposal of waste therefrom as may be required by the inspector will be submitted to him promptly;

(v) Such other requirements as may be necessary in the opinion of the Deputy Administrator of the Plant Protection and Quarantine Programs to assure retention of the material, including all wastes and residues, at the mill or plant and its processing, utilization or disposal in a manner that will eliminate all pest risk, will be complied with.

(3) Failure to comply with any of the conditions of an agreement specified in paragraph (a)(2) of this section may be cause for immediate cancellation of the agreement by the inspector and refusal to release, without vacuum fumigation, lint, linters, and waste for transportation to the mill or plant.

(4) Agreements specified in paragraph (a)(2) of this section may be executed only with owners or operators of mills or plants located in States in which cotton is not grown commercially and at locations in such other States as may be administratively designated by the Deputy Administrator of the Plant Protection and Quarantine Programs after due consideration of possible pest risk involved and the proximity of growing cotton.

(b) *Uncompressed or compressed.* (1)(i) Entry of uncompressed or compressed lint, linters, and waste will be authorized, subject to vacuum fumigation by approved methods, through any northern port, through any port in the State of California, and through any port on the Mexican Border, where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste arriving at a northern port where there are no approved fumigation facilities may be entered for immediate transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Compressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector, to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to any northern port for movement to an approved mill or plant for utilization.

(iv) Uncompressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to a northern port for movement to an approved mill or plant for utilization.

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not

produce cotton,[4] arriving at a northern port, subject to movement to an approved mill or plant.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

§ 319.8–9 Hull fiber and gin trash.

(a) Entry of hull fiber will be authorized under the same conditions as are applicable to waste under this subpart.

(b) Gin trash may be imported only under the provisions of § 319.8–20.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962]

§ 319.8–10 Covers.

(a) Entry of covers (including bags, slit bags, and parts of bags) which have been used as containers for cotton grown or processed in countries other than the United States may be authorized either (1) through a Mexican border port named in the permit for vacuum fumigation by an approved method in that part of the United States within the generally infested pink bollworm regulated area; or (2) through a northern port or a port in the State of California subject to vacuum fumigation by an approved method or without vacuum fumigation when the covers are to be moved to an approved mill or plant for utilization. When such covers are forwarded from a northern port to a mill or plant in California for utilization, or from a California port to another California or northern port for vacuum fumigation thereat or for movement to a mill or plant for utilization such movement shall be made by an all-water route unless the bales are compressed to a density of 20 pounds or more per cubic foot in which case the bales may be moved overland in van-type trucks or box cars if all-water transportation is not available. Such overland movement may be made only after approved surface treatment or under such other conditions as may be deemed necessary and are prescribed by the inspector. When such covers arrive at a port other than a northern, California, or Mexican border port they will be required to be transported therefrom immediately in bond by an all-water route to a northern or California port where approved vacuum fumigation facilities are available for vacuum fumigation thereat by an approved method or for forwarding therefrom to an approved mill or plant for utilization.

(b) American cotton bagging, commonly known as coarse gunny, which has been used to cover only cotton grown or processed in the United States, may be authorized entry at any port under permit and upon compliance with §§ 319.8–4 and 319.8–5, without fumigation or other treatment. Marking patches of the finer burlaps or other fabrics when attached to bales of such bagging may be disregarded if, in the judgment of the inspector, they do not present a risk of carrying live pink bollworms, golden nematode cysts or flag smut spores.

(c) Bags, slit bags, parts of bags, and other covers which have been used as containers for root crops or are of a kind ordinarily used as containers for root crops may be authorized entry subject to immediate treatment in such manner and according to such method as the inspector may select from administratively authorized procedures known to be effective under the conditions under which the treatment is applied, and subject to any additional safeguard measures that may be prescribed by the inspector pursuant to § 319.8–24, or that he may prescribe in regard to the manner of discharge from the carrier and conveyance to the place of treatment: *Provided*, That such covers may be authorized entry from Canada without treatment as prescribed in this paragraph unless the covers are found to be contaminated.

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening,

[4] For the purposes of this subpart the following countries are considered to be those in which cotton is not produced: Austria, Belgium, Canada, Denmark, Republic of Ireland (Eire), Finland, France, Germany (both East and West), Great Britain and Northern Ireland (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden, and Switzerland.

and which arrive from a country named in § 319.59–2(a)(2) of this part, if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Plant Protection and Quarantine Programs similar to that described in § 319.8–8(a)(2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

(f) If upon their arrival at a port of entry covers are classified by the inspector as coming within more than one paragraph of this section, they will be authorized entry only upon compliance with such requirements of the applicable paragraphs as the inspector may deem necessary to prevent the introduction of plant diseases and insect pests.

(g) Notwithstanding the provisions of any other paragraph of this section the entry from any country of bags, slit bags, parts of bags, and other covers will be authorized without treatment but upon compliance with other applicable sections of this subpart if the inspector finds that they have obviously not been used in a manner that would contaminate them or when in the inspector's opinion there is otherwise no plant pest risk associated with their entry.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 63 FR 31101, June 8, 1998]

SPECIAL CONDITIONS FOR THE ENTRY OF COTTON AND COVERS FROM MEXICO

SOURCE: Sections 319.8–11 through 319.8–14 appear at 27 FR 5309, June 7, 1962, unless otherwise noted.

§ 319.8–11 From approved areas of Mexico.

(a) Entry of lint, linters, and waste (including gin and oil mill wastes) which were derived from cotton grown in, and which were produced and handled only in approved areas of Mexico[5] may be authorized through Mexican Border ports in Texas named in the permits

(1) For movement into the generally infested pink bollworm regulated area such products becoming subject immediately upon release by the inspector to the requirements, in § 301.52 of this chapter, applicable to like products originating in the pink bollworm regulated area, or

(2) For movement to an approved mill or plant for utilization, or

(3) For movement to New Orleans for immediate vacuum fumigation.

(b) Entry of cottonseed or cottonseed hulls in bulk, or in covers that are new or which have not been used previously to contain cotton or unmanufactured cotton products, may be authorized through Mexican Border ports in Texas named in the permits, for movement into the generally infested pink bollworm regulated area when certified by an inspector as having been produced in an approved area and handled subsequently in a manner satisfactory to the inspector. Upon arrival in the generally infested pink bollworm regulated area such cottonseed or cottonseed hulls will be released from further plant quarantine entry requirements and shall become subject immediately

[5] See § 319.8–1(p) for definition of "Approved areas of Mexico." These are within that part of Mexico not included in the "West Coast of Mexico" (§ 319.8–1(q)) or "Northwest Mexico" (§ 319.8–1(r)).