

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 318

[Docket No. APHIS-2006-0027]

RIN 0579-AC15

Interstate Movement of Fruits and Vegetables From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to remove vapor heat treatment as an approved treatment for bell pepper, eggplant, Italian squash, and tomato moved interstate from Hawaii. This action is necessary because these four commodities can serve as hosts for the solanum fruit fly, which has been detected in Hawaii. Vapor heat treatment is not an approved treatment for that pest. We are also providing for the use of irradiation as an approved treatment for all *Capsicum* spp. (peppers) and *Cucurbita* spp. (squash) moved interstate from Hawaii. This action will relieve unnecessary restrictions on the interstate movement of peppers and squash and allow a greater variety of *Capsicum* spp. and *Cucurbita* spp. to be moved interstate from Hawaii.

EFFECTIVE DATE: March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-8758.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian fruits and vegetables regulations, contained in 7 CFR 318.13 through 318.13-17 (referred to below as the regulations), govern, among other things, the interstate movement of fruits and vegetables from Hawaii. Regulation is necessary to prevent the spread of dangerous plant diseases and pests that occur in Hawaii. Some fruits and vegetables regulated under the Hawaiian fruits and vegetables regulations are allowed to move interstate if they are treated with an approved treatment for certain plant pests. Lists of approved treatments for these fruits and vegetables and requirements for conducting these treatments are contained in 7 CFR part 305.

On October 11, 2006, we published in the **Federal Register** (71 FR 59694-59696, Docket No. APHIS-2006-0027) a proposal¹ to amend the regulations by removing vapor heat treatment as an approved treatment for bell pepper, eggplant, Italian squash, and tomato moved interstate from Hawaii. We proposed this action because these four commodities can serve as hosts for the solanum fruit fly, which has been detected in Hawaii, and vapor heat treatment is not an approved treatment for that pest. We also proposed to provide for the use of irradiation as an approved treatment for all *Capsicum* spp. (peppers) and *Cucurbita* spp. (squash) moved interstate from Hawaii. Treatment with irradiation is approved to neutralize all fruit flies of the family Tephritidae.

We solicited comments concerning our proposal for 60 days ending December 11, 2006. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

¹ To view the proposed rule go to <http://www.regulations.gov>, click on the "Advanced Search" tab, and select "Docket Search." In the Docket ID field, enter APHIS-2006-0027, then click "Submit." Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

Federal Register

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Friday, February 23, 2007

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule is in response to a species of fruit fly that has been detected in Hawaii, the solanum fruit fly (*Bactrocera latifrons*). Bell peppers, eggplant, Italian squash, and tomatoes are the four commodities for which vapor heat treatment has been an approved treatment that are affected by the solanum fruit fly. Because limited research has been done regarding the effectiveness of vapor heat treatment at neutralizing solanum fruit fly, APHIS is removing vapor heat treatment from the list of approved treatments for bell peppers, eggplant, Italian squash, and tomatoes moved interstate from Hawaii.

While vapor heat treatment will no longer be an approved treatment, irradiation is an approved treatment for the interstate movement of bell peppers and Italian squash from Hawaii. We are amending the regulations to approve irradiation as a treatment for all species of the genus *Capsicum* (peppers), not just bell peppers, and all species of the genus *Cucurbita* (squash), not just the Italian squash. APHIS has previously determined that an irradiation dose of 150 gray is sufficient to neutralize all fruit flies that affect *Capsicum* spp. and *Cucurbita* spp. in Hawaii, including the solanum fruit fly.

Approximately \$15.4 million worth of eggplant, green peppers, Italian squash, Oriental squash, and tomatoes were produced in the State of Hawaii in 2004, amounting to 52 million pounds (table 1). However, none of the eggplant, green peppers, Italian squash, or tomatoes produced in Hawaii in 2004 was moved interstate to the U.S. mainland.

According to the Hawaii Department of Agriculture, none of these commodities has been moved interstate from Hawaii to the U.S. mainland within the last 2 years.

TABLE 1.—PRODUCTION AND VALUE OF HAWAIIAN EGGPLANT, PEPPERS, SQUASH, AND TOMATOES, 2004

Commodity	Quantity (lb)	Value
Eggplant	1,050,000	\$809,000
Peppers (Green)	3,200,000	2,208,000
Squash (Italian, Oriental)	2,350,000	1,263,000
Tomatoes	16,800,000	11,088,000
Total	52,200,000	15,368,000

Source: USDA, Hawaii Agricultural Statistics, 2006.

The regulations will continue to give Hawaiian entities the opportunity to move *Capsicum* spp. and *Cucurbita* spp. interstate. While vapor heat treatment will no longer be an approved treatment for bell peppers and Italian squash, irradiation will become an approved treatment for all *Capsicum* spp. and *Cucurbita* spp. Irradiation will continue to be an approved treatment for eggplant and tomatoes as well.

Accordingly, we do not expect that this rule will have a significant economic impact on a substantial number of small entities. This rule is necessary to safeguard the U.S. mainland from the introduction of solanum fruit fly (*Bactrocera latifrons*). Because in recent years eggplant, peppers, squash, and tomatoes have not been moved interstate from Hawaii, the rule is not expected to have a significant impact on small or large entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to

Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects

7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto

Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

- Accordingly, we are amending 7 CFR parts 305 and 318 as follows:

PART 305—PHYTOSANITARY TREATMENTS

- 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

- 2. In § 305.2, in the table in paragraph (h)(2)(ii), the entry for Hawaii is amended as follows:

- a. By removing the entries for “Bell pepper” and “Squash, Italian”.
- b. By adding, in alphabetical order, entries for “*Capsicum* spp. (peppers)” and “*Cucurbita* spp. (squash)” to read as set forth below.
- c. By revising the entries for “Eggplant” and “Tomato” to read as set forth below

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(ii) * * *

Location	Commodity	Pest	Treatment schedule
Hawaii
*	*	*	*
*	*	*	*
	<i>Capsicum</i> spp. (peppers) ..	Fruit flies of the family Tephritidae	IR.
*	*	*	*
	<i>Cucurbita</i> spp. (squash)	Fruit flies of the family Tephritidae	IR.
*	*	*	*
	Eggplant	Fruit flies of the family Tephritidae	IR.
*	*	*	*
	Tomato	Fruit flies of the family Tephritidae <i>Ceratitis capitata</i>	IR. MB T101-c-3.
*	*	*	*

- 3. In § 305.34, in paragraph (a)(1), the table is amended as follows:
- a. By removing the entries for “Bell pepper” and “Italian squash”.

- b. By adding, in alphabetical order, entries for “*Capsicum* spp. (peppers)” and “*Cucurbita* spp. (squash)” to read as set forth below.

§ 305.34 Irradiation treatment of certain fruits and vegetables from Hawaii, Puerto Rico, and the U.S. Virgin Islands.

- (a) * * *
(1) * * *

IRRADIATION FOR PLANT PESTS IN HAWAIIAN FRUITS AND VEGETABLES

Commodity	Dose (gray)
* * * * * <i>Capsicum</i> spp. (peppers)	150
* * * * * <i>Cucurbita</i> spp. (squash)	150
* * * * * *	

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

- 4. The authority citation for part 318 continues to read as follows:

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

§ 318.13–4b [Amended]

- 5. In § 318.13–4b, paragraph (b) is amended as follows:
- a. By removing the words “bell peppers” and adding the words “*Capsicum* spp. (peppers)” in their place.
- b. By adding the words “*Cucurbita* spp. (squash),” after the word “carambolas.”.
- c. By removing the words “Italian squash.”.

§ 318.13–4f [Amended]

- 6. Section 318.13–4f is amended as follows:
- a. By removing the words “bell pepper” and adding the words “*Capsicum* spp. (peppers)” in their place.
- b. By adding the words “*Cucurbita* spp. (squash),” after the word “carambola.”.
- c. By removing the words “Italian squash.”.

Done in Washington, DC, this 16th day of February 2007.

W. Ron DeHaven,
Administrator, Animal and Plant Health Inspection Service.
[FR Doc. E7-3124 Filed 2-22-07; 8:45 am]
BILLING CODE 3410-34-P

DATES: This AD becomes effective March 12, 2007.

We must receive any comments on this AD by April 24, 2007.

ADDRESSES: Use one of the following addresses to comment on this AD:

• *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

• *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Fax:* (202) 493-2251.

• *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jurgen Priester, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222-5159; fax (817) 222-5785.

SUPPLEMENTARY INFORMATION: SAP informed the FAA on July 12, 2006, that at least nine SAP cylinder assemblies installed in TCM 470, 520, and 550 series reciprocating engines, Lycoming Engines (LE) 320, 360, and 540 series reciprocating engines, Avco Lycoming (AL) 540 series reciprocating engines, and Superior Air Parts, Inc. (SAP) 360 series reciprocating engines. This AD requires removing from service certain SAP part numbered (P/N) cast cylinder assemblies installed in TCM, LE, and AL reciprocating engines. This AD also requires removing from service certain cast cylinder assemblies installed as original equipment in SAP reciprocating engines, or in certain overhauled or repaired SAP reciprocating engines. This AD results from nine separated SAP cylinder assemblies in TCM reciprocating engines and one in LE reciprocating engines. We are issuing this AD to prevent cylinder separation that can lead to engine failure, a possible engine compartment fire, and damage to the airplane.

CYLINDER ASSEMBLY ELIGIBILITY

Series engines	P/N cylinder assemblies
TCM 470, 520, and 550	SA47000L-A1, SA47000L-A20P, SA47000S-A1, SA47000S-A20P, SA47000S-A21P, SA52000-A1, SA52000-A20P, SA52000-A21P, SA52000-A22P, SA52000-A23P, SA55000-A1, or SA55000-A20P.