

he determines that such fruits or vegetables, either as ordinarily packed and shipped or after treatment, do not involve risk of spreading any of the plant pests designated in the foregoing quarantine, and when such findings have been made known in administrative instructions of the Deputy Administrator of the Plant Protection and Quarantine Programs.

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

§ 318.13-3 Conditions of movement.

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

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

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

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

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

(3) Untreated fruits and vegetables from Hawaii may be moved interstate

for irradiation treatment on the mainland United States if the provisions of § 318.13-4f are met and if the fruits and vegetables are accompanied by a limited permit issued by an inspector in accordance with § 318.13-4(c). The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this subpart.

(c) *To a foreign destination after transiting the continental United States.* Fruits and vegetables from Hawaii otherwise prohibited movement from the State of Hawaii into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with § 318.13-17 of this subpart.

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

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

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

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

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

§318.13-4a

7 CFR Ch. III (1-1-03 Edition)

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

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

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

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

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

(d) *Compliance agreements.* As a condition of issuance of a limited permit under paragraph (c)(3) of this section, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance

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

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

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

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

(a) The type of treatment designated in this part as freezing shall be one of the commercially acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0 °F., with a storage tolerance of plus 20 °F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

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